



128 N. Swall Drive, #304 Los Angeles, CA 90048 [www.LAneighbors.org](http://www.LAneighbors.org)

October 18, 2011

Los Angeles City Council  
City Hall  
200 N. Spring Street  
Los Angeles, CA 90012

CC: Los Angeles City Attorney  
Los Angeles City Clerk

RE: Objection to Potential Violation of California Environmental Quality Act and Americans with Disabilities Act

Council Files No. 05-1853 and 05-1853-S1, Otherwise Known as Proposal to Shift to Property Owners Sidewalk Repair Responsibility for Damage Due to Tree Roots, and Proposal for Point-of-Sale Sidewalk Repair Plan

Honorable Councilmembers:

Before your Budget and Finance Committee and Public Works Committee is a proposed ordinance that would shift to property owners sidewalk repair responsibility for damage due to tree roots, including damage from city trees, and a proposal to allow sidewalk repairs to be deferred until the time of property sales.

We object to both policies as proposed. These ordinances violate the California Environmental Quality Act (CEQA) and the Americans with Disabilities Act (ADA). Definitive action on these policies therefore would be unlawful. If such action occurs, we are prepared to seek relief, including injunctive relief, through the courts on behalf of property owners and the people of Los Angeles.

### **Background on the Issues**

Currently, Los Angeles Municipal Code § 62.104 provides that the Los Angeles Board of Public Works has the mandatory obligation to perform both preventive maintenance and repair work that is required due to tree root growth: "Preventive measures and repairs or reconstruction to curbs, driveways or sidewalks required as the result of tree root growth shall be repaired by the Board at no cost to the adjoining property owner."

This responsibility has been the obligation of the city since 1974. It is longstanding practice in Los Angeles and is considered to be part of the 'compact' between the city and property owners. The fact that the city maintains this mandatory responsibility helps ensure that sidewalks are repaired consistently, to reasonable standards, to ensure the health and safety of pedestrians who often have no other access and mobility options, and to ensure the maintenance of street trees, which the city

itself considers to be significant infrastructure that provides important benefits to ensure the health of Angelenos.

Now, the city proposes to change this longstanding practice — to abrogate its responsibility — through adoption of ordinances that would amend the municipal code. In so doing, the city claims the actions are exempt from the California Environmental Quality Act. This is a false claim. The proposed ordinances, individually and together, do in fact constitute a “project” under CEQA; they are likely to cause a direct physical change in the environment and produce myriad results that will endanger the health and safety of the people of Los Angeles. These potentially significant impacts must be thoroughly identified, analyzed and assessed by the city.

Our comments elaborate on the potentially significant environmental impacts, be they related to health and safety, air quality, access, mobility, aesthetics or other factors. Quite simply, given the direct and indirect impacts of the proposed ordinances, the reasonably foreseeable consequences of the ordinances on the environment, and cumulative impacts, the proposed program clearly is subject to review in an environmental impact report (EIR). Testimony from two senior urban planning experts (each with more than 20 years of experience) and a well-credentialed urban environmental professor and practitioner supports our general view.

We are hopeful that no definitive action will be taken on the proposed ordinances at least until such time as there has been sufficient environmental review, and that the threats posed by the ordinances to the health and safety of people can be ameliorated, if in fact they can be to a less than significant degree. Absent that outcome, we reserve the right to pursue all legal remedies, including access to justice through the courts, to halt implementation of the ordinances to prevent imminent harm to the people and the urban forest of Los Angeles.

Thank you for your consideration.

### **Key Points**

#### Sidewalks and Trees are Significant Infrastructure; Impacts to Significant Infrastructure Must Be Identified, Analyzed and Assessed

As the city says repeatedly on its own website and in its General Plan Framework (Chapter 9, “Infrastructure and Public Services”), sidewalks and trees are significant infrastructure that provide many benefits, and the condition of which determines the extent to which those benefits are or are not provided. That much of this infrastructure is *existing* makes the issues and the impacts no less significant. In fact, the opposite is true: Altering existing infrastructure (not structures, but infrastructure) will produce significant effects. The city acknowledges as much in its written communications about sidewalks and trees; that rationale has been the basis of the city’s longstanding policy to trim trees and prune the roots of trees located in the public parkway. So doing provides a litany of benefits to the city and its people.

The issues of trees and sidewalks are inextricably tied, which also is why the city has assumed the mandatory responsibility, since 1974, to repair sidewalk damage caused by tree roots. The city has sought to mitigate the risks associated with individual property owners potentially hacking away at trees and tree roots, or removing trees, because of the likelihood of tree damage and associated negative environmental impacts.

The city's maintenance and repair of sidewalks due to tree root damage has been part and parcel of this long-term commitment to ensure the health of trees and to assure sidewalk access and safety for pedestrians.

Notably, by the terms of the municipal code and state general code, the city's obligations relative to sidewalks have been "mandatory." The law says the city "shall" exercise this responsibility, not "may," which is permissive.

On this basis, many property owners have deferred seeking to repair their own sidewalks, even as some damage has worsened and become more costly to repair, precisely because the city maintained this mandatory responsibility.

The fact that the city has inconsistently provided sidewalk repair and tree root maintenance in the past 10 years has not altered the city's mandatory responsibility.

Ordinance Represents a Significant Policy Shift That is Likely to Produce Material Changes in the Behavior of Property Owners

For all of the reasons cited above, the city's consideration of a proposal to change the law (remove the "exception," as the city says, and impose a point-of-sale sidewalk repair plan) is no small matter. The fact is, a public service is proposed to be privatized.

Rather than incur the ongoing costs associated with tree root pruning and sidewalk repair, and faced with the potential liability for slip and fall accidents on sidewalks, many property owners are likely to elect to remove trees altogether (and not replace them), or hack trees down to their stumps, thus eliminating many of the environmental benefits provided by trees. As a result of these ordinances, Los Angeles could lose thousands of trees, particularly mature trees that provide the greatest environmental and aesthetics benefits.

The attached documents illuminate the size and scale of LA's urban forest: 700,000+ trees, 10,000+ miles of sidewalk ... the magnitude of the issue is tremendous, with the potentially significant impacts of the proposed ordinances equally so.

The city argues, essentially, "But there are laws on the books that prevent property owners from damaging trees. The environment is protected." Not so. City laws in this area are weak, and poorly enforced. A longtime resident of my own neighborhood, Ann Blum, has repeatedly called the city to report the illegal removal of city trees, only to be told that property owners will not be cited unless they are caught in the act. "Caught in the act?" How likely is that ever to happen?

The city of Los Angeles imposes no fines for the removal of street trees; we challenge the city to produce any evidence that they have prosecuted such offenses in recent years.

The city also asserts: "What we propose to do is the same as Pasadena." That, too, is a false claim. Pasadena does require property owners to repair sidewalks damaged by tree roots, but the city maintains every tree in the public parkway, including through a regular system of tree root pruning. Thus, conflicts between trees and sidewalks are minimal, and sidewalk repair costs for property owners are limited.

Los Angeles, on the other hand, is essentially out of the tree trimming and tree root pruning business altogether now (see attached Los Angeles Daily News articles). Costs facing many property owners as result of these proposed ordinances could range from \$5,000 to \$20,000. Cost alone is likely spur property owner behavior change.

#### Ordinance Impacts are Likely to Be More Severe in Low-Income Neighborhoods

In lower-income neighborhoods where house values are lower and access to capital, including home equity may be more limited, the impacts of the proposed ordinance will be most severe.

The cost of repair and maintenance of sidewalks and trees is proportionately higher relative to house values in lower-income communities. Thus, more trees are likely to be removed in lower-income neighborhoods, and fewer sidewalks improved. Among the significant questions unanswered by the city relative to the potential implementation of these ordinances: "If a property owner doesn't have the money to repair a sidewalk that is considered dangerous, and the city has dedicated no revenue to sidewalk repair, how will that sidewalk repair be paid for?" It is unknown. Maybe the damaged sidewalk simply will be ignored by the city, which will claim it isn't responsible unless or until there is an accident, or until the property is sold, which might be years later. How would this be compliant with the Americans with Disabilities Act, which is intended to ensure disabled people have reasonable ability to access facilities, including by way of infrastructure? It would not be compliant.

As the city itself acknowledges in an October 19, 2011 Bureau of Street Services (BSS) staff report, these proposed ordinances, if adopted, would require significant resources to implement, but there are no resources proposed to fund this program. Apparently, the city intends to worry about that later. But later is too late. People have the potential to be hurt as a result of these ordinances if there are insufficient resources and inadequate programs to effect sidewalk repairs, and if some repairs are indefinitely deferred until properties are sold, whenever that may be.

The October 19, 2011 staff report also offers evidence that the city continues to operate in the Twilight Zone, disconnected from the reality in which people actually live. Says the report: "Furthermore, BSS has very limited information as to where this [sidewalk and tree root] damage is and to what degree a problem exists." It is thus remarkable for the city to assert that the proposed ordinances are subject to categorical exemptions from CEQA. Lack of information is the reason to *perform* environmental review, not a reason to *avoid* it.

Similarly, until it is known where the sidewalk and tree root damage is located and to what degree a problem exists, it is impossible to determine the resources necessary to staff and fund maintenance and repair programs. Years-old data that itself is a 'guess' is insufficient. BSS, perhaps with oversight of the City Controller, can produce this type of actionable information.

More observations and questions:

- There is no operational, financial and strategic plan to implement the ordinances to ensure the most dangerous sidewalks, or most highly trafficked ones, are repaired in a timely manner.

*In fact, the point-of-sale sidewalk repair plan that we refer to in this comment letter as an "ordinance" is no ordinance at all, but a loosely drawn program the specifics of which change from staff report to staff report. On the one hand, this is understandable as the plan has been a work in progress; on the other hand, without a definitive, binding plan, the potentially significant negative impacts of the proposed sidewalk repair responsibility shift cannot be mitigated! The sidewalk repair responsibility shift cannot and should not be imposed without a definitive, binding plan to fix the current mess and ensure the ongoing health and safety of the people of Los Angeles.*

- There is no enforcement plan for the proposed ordinances.
- There is no financing mechanism to help property owners afford the expense if repair responsibility is shifted.
- There's been no coordinated outreach to the community, including neighborhood councils, since at least 2009. Neighborhood councils have not been asked to join city-sponsored study groups charged with developing solutions to these problems.
- There's been no explanation by the city to property owners about their liability if someone trips and falls on a sidewalk damaged by a city tree, either currently, after a sidewalk is repaired, or long term if the problem occurs or recurs as a result of the city continuing to not trim trees or prune roots.
- There's been no explanation by the city to property owners of how the proposed ordinances may affect property owners' ability to secure or maintain property insurance, or the cost of such insurance.
- There's been no assessment of how the likely loss of trees in the public parkway will affect the aesthetic of neighborhoods.

For all of these reasons, and the others articulated on the record by experts, the adoption of a Categorical Exemption relative to the proposed ordinances is grossly insufficient.

### **CEQA Requires Preparation of an EIR for the Ordinances**

The California Environmental Quality Act requires an EIR whenever a project *may* have a significant adverse impact on the environment. (California Public Resources Code § 21151.) “If there is substantial evidence of a significant environmental impact, evidence to the contrary does not dispense with the need for an EIR when it can still be ‘fairly argued’ that the project may have a significant impact.” (*Friends of “B” Street v. City of Hayward* (1980) 106 Cal.App.3d 988, 1001.)

LA Neighbors United respectfully requests that the proposed ordinances be iced (to use a technical term), at least until all of the potentially significant impacts are fully identified, analyzed and assessed in an environmental impact report.

Thank you for your consideration.

Sincerely,



Cary Brazeman

Founder, LA Neighbors United

Former Managing Director, CB Richard Ellis Group, Inc. +  
Member, Urban Land Institute - Los Angeles District Council +  
Member, Board of Directors, Friends of the Los Angeles River +  
Member, Board of Directors, Mid City West Community Council +

+ Titles for identification purposes only

#### **Attachments**

- Revised Draft Ordinance and CEQA Finding, March 31, 2011
- Existing Subsection (e) of Section 62.104 of the Los Angeles Municipal Code
- Comments of Travis Longcore, Ph.D., Land Protection Partners, October 11, 2011. *Environmental compliance expert opines on potentially significant negative impacts of proposed ordinances.*
- Comments of Dean Sherer, AICP, October 9, 2011. *Urban planning and environmental expert opines on potentially significant negative impacts of proposed ordinances.*
- Comments of Madhu Kumar, Former Planner, Los Angeles Department of City Planning, and Former Member, Environmental Advisory Commission, City of Pasadena, October 16, 2011. *Urban planning and environmental expert opines on potentially significant negative impacts of proposed ordinances.*
- Comments of Jack Humphreville, President of the DWP Advocacy Committee and Ratepayer Advocate for the Greater Wilshire Neighborhood Council, July 21, 2011. *Community leader opines on transfer of public service to private responsibility, lack of community involvement*

*in policies, lack of short- and long-term implementation plans to effect proposed policies; article also includes a photograph of tree damaged sidewalk.*

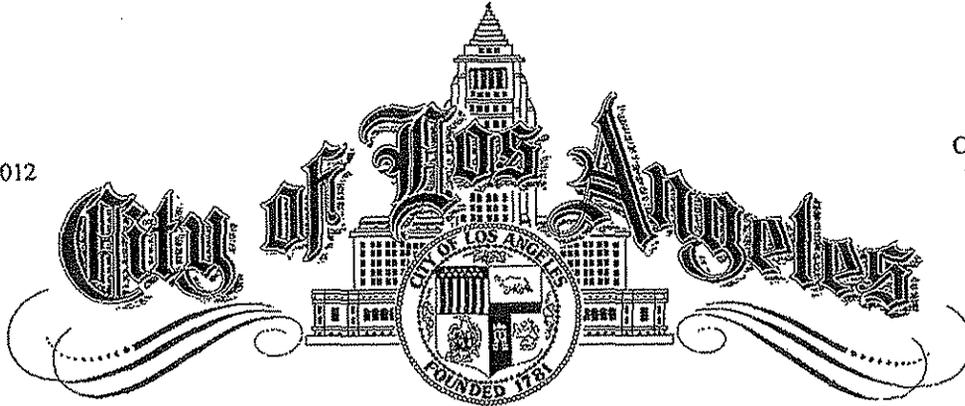
- Comments of the “Realtor Community in the City of Los Angeles” (David Kissinger memo dated September 23, 2009). *Real estate industry experts and practitioners assess the impacts of the point-of-sale sidewalk repair plan, and provide factual basis that rebuts the city’s assertion that the point-of-sale program will produce timely repairs of sidewalks.*
- “Tree limb removals fall to city budget ax,” Los Angeles Daily News, October 28, 2010. *Newspaper account documenting that the city is not trimming trees or pruning tree roots, which, among other things, contributes to sidewalk damage and, thus, health and safety risks.*
- “Quality of life drops again for residents,” Los Angeles Daily News, November 18, 2010. *Newspaper account documenting that the city is not trimming trees or pruning tree roots, which, among other things, contributes to sidewalk damage and, thus, health and safety risks.*
- Los Angeles General Plan Framework, Chapter 9, “Infrastructure and Public Services,” Printed from the Internet October 16, 2011. *Plan communicates the city’s view that sustaining a sizable urban forest, including facilitating the planting of large, canopied trees in street parkways, is a city priority. Proposed ordinances would produce results that are inconsistent with this policy.*
- “Stewards of the Living Infrastructure,” “Street Trees & Sidewalks,” “Street Tree Pruning Cycle,” “Welcome to the Urban Forestry Division – A Message from the Chief Forester,” “Street Tree Policies,” City of Los Angeles Website, Printed from the Internet August 31, 2011. *Documents communicate the city’s view that sustaining a healthy, vibrant urban forest is a city priority, and that city policies should encourage the health and maintenance of the urban forest. Proposed ordinances would produce results that are inconsistent with these policies. Documents also reiterate the city’s mandatory responsibility to repair tree root damaged sidewalks, and express a city commitment to tree trimming including root pruning, thus affirming the city’s ‘compact’ with property owners.*
- Letter from William A. Robertson (Director, Los Angeles Bureau of Street Services) Announcing End of 50/50 Sidewalk Reconstruction Program, July 1, 2009. *Document affirms city’s mandatory responsibility to repair tree root damaged sidewalks.*
- Memo from William A. Robertson (Director, Los Angeles Bureau of Street Services) on “Street Tree Policies,” February 14, 2007. *Document affirms city’s mandatory responsibility to repair tree root damaged sidewalks, and to trim trees, including tree roots. Document communicates city’s commitment to sustaining a sizable, healthy urban forest. Proposed ordinances are inconsistent with these policies.*
- PowerPoint Presentation from Cynthia M. Ruiz, President, Los Angeles Department of Public Works, Not Dated. *Document affirms the city’s history of funding sidewalk repair due to tree root damage, and acknowledges many of the issues associated with a point-of-sale sidewalk repair program.*
- City of Pasadena “City Trees and Tree Protection Ordinance,” Printed from the Internet October 16, 2011. *Ordinance affirms that the city of Pasadena assumes responsibility for the trimming of all trees in the public parkway, including the pruning of tree roots, which limits tree root damage to sidewalks. Tree protection ordinance imposes a monetary fine for tree removal, which helps minimize the loss of street trees from the urban forest.*
- Staff Report from Nazario Saucedo, Interim Director, Los Angeles Bureau of Street Services, “Sidewalk Repair Options,” October 19, 2011. *Report confirms that the city has limited*

*knowledge of the extent and location of sidewalk damage across the city, and that no resources have been identified to implement the proposed ordinances to ensure compliance, including the timely repair of damaged sidewalks.*

- Letter from Studio City Neighborhood Council to Councilmember Krekorian, May 31, 2010. *Letter asserts that the city has not conducted comprehensive community outreach on proposed ordinances, and that the community has a “sincere willingness” to seek and share solutions to this quality of life issue.*
- Northwest San Pedro Neighborhood Council Resolution Related to Sidewalk Ordinance, November 10, 2009. *Resolution suggests that if property owners are made responsible for repairing tree root damaged sidewalks, property owners should be allowed to remove trees.*
- Five Photographs of Tree Damaged Sidewalks, City of Los Angeles, 2011.
- Letter from National Council of Disability to U.S. Solicitor General on Applicability of Americans with Disabilities Act to Sidewalks, April 17, 2003. *Letter asserts and affirms the responsibility of municipalities to maintain systems of public sidewalks to assure the safe access and mobility of people.*

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CARMEN A. TRUTANICH  
City Attorney

REPORT NO. R 1 1 - 0 1 3 2  
MAR 3 1 2011

**REPORT RE:**

**REVISED DRAFT ORDINANCE AND CEQA FINDING IN CONNECTION  
WITH AMENDING SUBSECTION (e) OF SECTION 62.104 OF THE  
LOS ANGELES MUNICIPAL CODE TO REPEAL THE "EXCEPTION"  
THAT ESTABLISHED CITY LIABILITY FOR REPAIR OF CURBS,  
DRIVEWAYS AND SIDEWALKS DUE TO TREE ROOT DAMAGE**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Council File No. 05-1853

Honorable Members:

Pursuant to your request, this Office previously prepared and transmitted (City Attorney Report No. R09-0270) a draft ordinance that would amend Subsection (e) of Section 62.104 of the Los Angeles Municipal Code (LAMC) to repeal the "EXCEPTION" within that section which established City liability for repair or reconstruction of curbs, driveways and sidewalks required as a result of tree root growth. Thereafter, your Honorable Public Works and Budget and Finance Committees requested this Office to revise the draft ordinance to increase the time required for adjoining property owners to commence the work of repair or reconstruction of curbs, driveways and sidewalks from two weeks to 90 days after the date notice is given. This Office now transmits for your consideration the attached revised draft ordinance, approved as to form and legality.

CEQA Exemption

This ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14, Chapter 3 of the California Code of Regulations Section 15301. Existing Facilities (which includes the repair of existing public structures or facilities involving negligible or no expansion of an existing use) and City CEQA Guidelines Article III 1.a.3 (repair, maintenance or minor alteration of existing highways and streets, sidewalks, gutters...). If the Council chooses to adopt the ordinance, it should also find that it is exempt from the provisions of CEQA pursuant to the above cited sections.

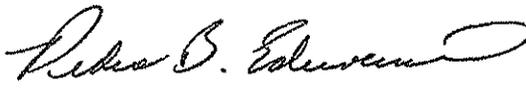
Council Rule 38

In accordance with the requirements of Council Rule 38, this Office has forwarded the draft ordinance to affected City departments and requested them to address any comments that they may have directly to the City Council when you consider this matter.

If you have any questions regarding this matter, please contact Assistant City Attorney Edward M. Jordan at (213) 978-8184. He or another member of this Office will be present when you consider this matter in order to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By 

PEDRO B. ECHEVERRIA  
Chief Assistant City Attorney

PBE:EMJ:mg  
Transmittal

ORDINANCE NO. \_\_\_\_\_

An ordinance amending Subsections (b) and (c) of Section 62.104 of the Los Angeles Municipal Code to increase the time required for adjoining property owners to commence work of repair or reconstruction of curbs, driveways and sidewalks, and to repeal the EXCEPTION within Subsection (e) of Section 62.104 of the Los Angeles Municipal Code to eliminate City responsibility for the repair or reconstruction of curbs, driveways and sidewalks required as a result of tree root growth.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (b) of Section 62.104 of the Los Angeles Municipal Code is hereby amended to read as follows:

(b) **Time Required for Repairs.** Any owner, agent or occupant of any such premises, within ninety (90) days after notice given as provided herein, shall commence the work of repair or reconstruction, or both, and shall do said work in the manner and with the materials specified in said notice. No owners, agent or occupant of any such premises where notice is given as provided herein shall fail, refuse, or neglect to commence the work required in said notice within the time permitted herein, nor shall any such person after having begun such work fail, refuse, or neglect to proceed diligently with the work to completion in the manner and with the materials specified in said notice.

Sec. 2. Subsection (c) of Section 62.104 of the Los Angeles Municipal Code is hereby amended to read as follows:

(c) **Failure to Repair.** In the event a person neglects, fails, or refuses within ninety (90) days after notification, to begin the work of repair or reconstruction of the property designated in the notice, or fails to prosecute the work diligently to completion, the Board shall have the power to perform the work described in the notice.

Sec. 3. Subsection (e) of Section 62.104 of the Los Angeles Municipal Code is hereby amended to read as follows:

(e) **Determination of Responsibility for Damage.** Whenever the Board determines that a curb, driveway or sidewalk is damaged as the result of negligence or violation of this Code and the Board determines the identity of the responsible party, all costs incurred pursuant to this section shall be a personal obligation of the responsible party, recoverable by the City in an action before any court of competent jurisdiction. These costs shall include an amount equal to forty percent (40%) of the cost to perform the actual work, but not less than the sum of \$100.00, to cover the City's costs for

administering any contract and supervising the work required. In addition to this personal obligation and all other remedies provided by law, if the Board determines that a curb, driveway or sidewalk is damaged to such an extent as to create a menace to the public health, welfare and safety, and to constitute a public nuisance, the City may collect any judgment, fee, cost, or charge including any permit fees, fines, late charges, or interest, incurred in relation to the provisions of this section as provided in Los Angeles Administrative Code Sections 7.35.1 through 7.35.8.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality:

CARMEN A. TRUTANICH, City Attorney

By  \_\_\_\_\_  
EDWARD M. JORDAN  
Assistant City Attorney

Date 3-31-11

File No. 05-1853

SEC. 62.104. CURB AND SIDEWALK REPAIRS.

(Amended by Ord. No. 146,040, Eff. 7/13/74.)

When a sidewalk, driveway or curb constructed on any street shall be out of repair or in need of reconstruction, or in a condition to endanger persons or property passing thereon, or in a condition to interfere with the public convenience in the use thereof, the Board may require that the owners or occupants of lots or portions of lots fronting on said sidewalk, or curb and on the same side of the street where such sidewalk, driveway or curb is located to repair or reconstruct the sidewalk, driveway or curb, or both. The Board may give written notice thereof to the owners of the adjoining premises, or to their agents or to the occupants of such premises, or by leaving a copy of such notice on such premises.

(a) **Notice – Content of.** Said notice shall contain a description of the work required to be done and shall designate the materials to be used and shall specify the manner in which said work shall be done.

(b) **Time Required for Repairs.** Any owner, agent or occupant of any such premises, within two weeks after notice given as provided herein, shall commence the work of repair or reconstruction, or both, and shall do said work in the manner and with the materials specified in said notice. No owners, agent or occupant of any such premises where notice is given as provided herein shall fail, refuse, or neglect to commence the work required in said notice within the time permitted herein, nor shall any such person after having begun such work fail, refuse, or neglect to proceed diligently with the work to completion in the manner and with the materials specified in said notice.

(c) **Failure to Repair.** In the event a person neglects, fails, or refuses within two weeks after notification, to begin the work of repair or reconstruction of the property designated in the notice, or fails to prosecute the work diligently to completion, the Board shall have the power to perform the work described in the notice. (Amended by Ord. No. 175,596, Eff. 12/7/03.)

(d) **Preventive Measures.** The Board is authorized to take preventive action such as root pruning or tree removal to prevent damage to curbs, driveways or sidewalks.

(e) **Determination of Responsibility for Damage.** (Amended by Ord. No. 175,596, Eff. 12/7/03.) Whenever the Board determines that a curb, driveway or sidewalk is damaged as the result of negligence or violation of this Code and the Board determines the responsible party, all costs incurred pursuant to this section shall be a personal obligation of the responsible party, recoverable by the City in an action before any court of competent jurisdiction. These costs shall include an amount equal to 40 percent of the cost to perform the actual work, but not less than the sum of \$100.00, to cover the City's costs for administering any contract and supervising the work required. In addition to this personal obligation and all other remedies provided by law, if the Board determines that a curb, driveway or sidewalk is damaged to such an extent as to create a menace to the public health, welfare and safety, and to constitute a public nuisance, the City

may collect any judgment, fee, cost, or charge, including any permit fees, fines, late charges, or interest, incurred in relation to the provisions of this section as provided in Los Angeles Administrative Code Sections 7.35.1 through 7.35.8.

**EXCEPTION:** Preventive measures and repairs or reconstruction to curbs, driveways or sidewalks required as the result of tree root growth shall be repaired by the Board at no cost to the adjoining property owner.



## **Land Protection Partners**

P.O. Box 24020, Los Angeles, CA 90024-0020  
Telephone: (310) 247-9719

### **City of Los Angeles Proposal to Shift Expense of Repair from Damage by Street Tree Roots to Property Owners Will Have Adverse Environmental Impacts**

Travis Longcore, Ph.D.  
October 11, 2011

Since 1974, the City of Los Angeles has assumed financial responsibility for the repair of curbs, driveways, or sidewalks from damage caused by roots from street trees. With the funding for such efforts much more difficult to obtain, the City is proposing to transfer this responsibility back to property owners by rescinding the exception that had been created to the Improvement Act of 1911 (California Streets and Highways Code – Division 7). The City Attorney's proposal for this action makes the claim that it would be categorically exempt from the California Environmental Quality Act under Section 15061(b)(3) of the State CEQA Guidelines, which applies if "it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment." Contrary to the City Attorney's assertion, this policy change could have significant adverse impacts on the environment because it would create a new incentive for property owners to remove street trees. This report outlines this foreseeable significant environmental impact.

#### **Street Trees Provide Unique Environmental Benefits**

Although street trees make up less than 10% of the typical urban forest (Moll & Kollin 1993), they are disproportionately important to the urban experience and confer unique environmental benefits (Maco & McPherson 2002). These benefits include:

- Extending the longevity of pavement by shading, thereby reducing City expenses for repaving (McPherson & Muchnick 2005);
- Mitigating the urban heat island by increasing shade on paved surfaces (Asaeda et al. 1996);
- Reducing emissions of volatile compounds from parked vehicles (Scott et al. 1999);
- Improving air quality and increasing carbon dioxide sequestration (McPherson et al. 2005);
- Increasing residential property values, thereby increasing the City's tax base (Conway et al. 2008);
- Reducing stormwater flows (Xiao et al. 1998);
- Providing other wildlife and quality of life benefits (Fernández-Juricic 2000; Luck et al. 2011).

The City recognizes these benefits and consequently encourages the planting of street trees, requires a permit to trim or remove a street tree, and in better economic times both planted street trees and provided preventative maintenance.

### **Additional Financial Burden Creates an Incentive to Remove Trees**

Any time a property owner is faced with an additional financial burden associated with maintaining a property, an incentive is created to remove the element causing that burden. This principle has been shown in analysis of the federal Endangered Species Act (ESA). When an endangered species is found on a property, the limitations associated with the ESA can pose a financial burden to the property owner. Therefore, property owners tend to manage their properties in a manner that minimizes the probability that endangered species will find habitat on their property (Lueck & Michael 2003; Simmons & Simmons 2003). The parallel is obvious for the City's proposal to make owners financially responsible for damage caused by street trees; with increased cost, property owners will look for a way to minimize that cost through removal of the tree. The difference from the ESA is that the federal law has sufficient safeguards against, and punishments for, removing the public good (i.e., endangered species) such that the law is effective. In comparison, however, the City of Los Angeles specifically allows for application to remove a street tree when the sidewalk is off-grade or when a driveway or driveway apron is off-grade (City of Los Angeles 2011). This makes it extremely likely that property owners will simply remove trees when faced with the cost of repairing sidewalks, curbs, and driveways damaged by street trees.

### **Los Angeles Property Owners Already Have a Tendency to Cut Down Trees**

In a comparison of the tree cover in single family residential neighborhoods in the largest cities in Los Angeles County (including City of Los Angeles), tree cover decreased on lots between 2000 and 2009, both for properties recording additional home square footage and those with no expansion (Lee et al. 2011). For those homes in the sample without any additional construction, tree cover still decreased from 36% to 29% during this period (Lee et al. 2011). For owners in the sample constructing additions or rebuilding their homes, cover decreased on average from 44% to 28% (those adding square footage had more tree cover to start with) (Lee et al. 2011). One can conclude from these alarming statistics that property owners in the City of Los Angeles in recent years already have a tendency to remove trees, which exacerbates the potential impacts of additional removals that would result from shifting the economic burden of the damage from street trees to property owners. That is, Los Angeles is faced with declining tree cover in its neighborhoods (a problem that itself should be addressed), which makes the cumulative impacts of additional losses more significant in the required CEQA analysis.

### **Categorical Exemption Cannot Apply Because Significant Impacts Are Foreseeable**

In light of the extreme importance and environmental value of street trees, the well-established economic principle that an increased cost of maintaining street trees would result in additional street tree removal, and the context of declining tree cover in Los Angeles neighborhoods, a fair argument can be made that the proposed policy would have significant adverse impacts on the environment. The burden to property owners will represent a new and significant financial incentive compared against the baseline of City responsibility for appropriate root pruning and

repair of damage caused by street trees. Unlike the City, individual property owners do not have to consider the public good and benefits of street trees, but rather face only their own economic interests in deciding whether to apply to remove a street tree. Even if street trees are replaced, the environmental value of a small tree is exponentially lower than that of a large tree. In short, the City is better able to balance the environmental benefits of street trees against the cost of upkeep, and any move to shift this burden back to property owners will have adverse environmental impacts requiring analysis under CEQA and undermine the years of investment that the City has made in its street trees.

## Qualifications

Land Protection Partners has provided scientific review of environmental compliance documents and analysis of complex environmental issues for local, regional, and national clients for 13 years. Dr. Travis Longcore is Associate Professor (Research) at the USC Spatial Sciences Institute and Associate Adjunct Professor at the UCLA Institute of the Environment and Sustainability. He was graduated *summa cum laude* from the University of Delaware with an Honors B.A. in Geography, holds an M.A. and a Ph.D. in Geography from UCLA, and is professionally certified as a Senior Ecologist by the Ecological Society of America. Longcore has authored or co-authored over 20 scientific papers in top peer-reviewed journals such as *Conservation Biology*, *Current Biology*, *Environmental Management*, and *Frontiers in Ecology and the Environment* and is co-editor of the book *Ecological Consequences of Artificial Night Lighting* (Island Press, 2006).

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October 9, 2011

Honorable City Council  
City of Los Angeles  
200 North Spring Street  
Los Angeles, CA 90012

RE: LA CITY COUNCIL FILE 05-1853 – REVISED DRAFT ORDINANCE AND  
CEQA FINDING REGARDING SIDEWALK REPAIR RESPONSIBILITY IN  
THE CITY OF LOS ANGELES.

Dear City Council Members:

It has been brought to my attention that the City Council is considering adoption of an ordinance which would shift to property owners the responsibility for repair of sidewalks damaged by the roots of city trees planted in the public parkway. This proposed legislation is in addition to the city stating that they are “effectively out of the tree trimming business.” As a homeowner in Council District 2 and an active community member, I ask that the City Council NOT adopt the proposed ordinance. This ordinance would place an unfair financial burden on property owners during a time of grave fiscal challenges for all.

My fear, and the fear of my neighbors, is that shifting this responsibility is likely to result in many property owners choosing simply to remove trees, and not replace them, rather than incur financial responsibility for the upkeep of trees, including root pruning, and sidewalks, and to limit potential liability for accidents caused by damaged sidewalks. This fear isn't just emotional, but rational, based on human behavior and on my longtime experience as a professional planner and environmental consultant (I am currently a member of the American Planning Association and American Institute of Certified Planners). The city is likely to experience a net loss of trees as a result of this policy with lower-income neighborhoods hit the hardest, as the cost of repair and maintenance of sidewalks and trees is proportionately higher relative to home values in lower-income communities.

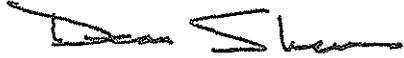
There are many sidewalks in the Sunland-Tujunga area that need repair or removal and replacement. This has been traditionally a city responsibility in the past and many communities across southern California have adopted sidewalk repair and replacement regulations in which this responsibility is entirely the responsibility of the city or is a shared responsibility between the city and the homeowner. Surely the City of Los Angeles can craft a compromise solution which doesn't unduly burden the individual homeowner with this obligation.

I also question the City's proposed CEQA exemption for the proposed ordinance. While Class I CEQA exemptions are routinely used for maintenance types of projects, the implementation of this ordinance could directly result in the loss of significant numbers of trees that homeowners do not wish to trim or maintain. Consequently, nesting habitat for

important bird species could be lost along with "deforestation" occurring across residential neighborhoods in the city.

I ask that you re-consider action on this proposed ordinance and direct the City Attorney and Public Works Department to devise a new and more acceptable approach to the sidewalk maintenance issue. There are plenty of examples to choose from.

Respectfully Submitted,



Dean C. Sherer, AICP  
Sunland-Tujunga Community Member

- c. Paul Krekorian, Council District 2  
Karo Torossian, Planning Deputy.

*Mr. Dean Sherer* is an urban and environmental planner specializing in land use planning, environmental analysis, and planning management services. He has over 30 years of experience in the management and preparation of planning studies, public policy plans, and environmental impact reports. Mr. Sherer has extensive experience in preparing environmental documents for major infrastructure, housing, and commercial/retail projects. He has also served as Acting Planning Manager for several cities in the southern California region including the cities of Santa Monica, Baldwin Park, and Covina. Mr. Sherer is a member of the American Planning Associations and the American Institute of Certified Planners.

Mr. Sherer has also taken an active role in the Sunland-Tujunga community by serving as Vice Chair for Planning on the Land Use Committee. In this role he advises the Land Use Committee and Neighborhood Council on a number of planning and zoning-related issues. He also worked extensively with the Sunland-Tujunga Alliance in preparing the environmental documentation rebutting the Home Depot's Preliminary Environmental Review for a proposed store in the community and has drafted numerous appeals of Planning Department determinations on other projects proposed in the Sunland-Tujunga area.

October 16, 2011

Mr. Cary Brazeman  
LA Neighbors United  
128 N. Swall Drive, #304  
Los Angeles, CA 90048

Dear Cary:

I have reviewed Los Angeles City Council File 05-1853, including the proposed ordinance to transfer to property owners, the responsibility for sidewalk repair due to tree root damage. This raises several issues with the foremost being the lack of environmental analysis on an action likely to negatively impact both the city's sustainability efforts and the regional air quality. It is a well-known fact that Los Angeles has a lack of open space and tree canopy coverage and that several initiatives have been undertaken to increase the number of trees. If tree trimming and sidewalk responsibilities fall entirely on property owners, it is a reasonable assumption that many would choose to eliminate trees or even sidewalks versus accepting the responsibility for their care.

It would also impact the City of Los Angeles' (a signatory to the US Conference of Mayor's Climate Protection Agreement) commitment to reducing global warming pollution levels to seven percent below 1990 levels by 2012 in accordance with the Kyoto Protocol. To that effect, the Mayor in May 2006 initiated a Green City Action Plan, which included the planting of a million trees. The following are excerpts from the Mayor's "Million Trees Initiative" to make Los Angeles greener, cleaner and more sustainable:

"Trees are critical to quality of life. They increase air quality by supplying oxygen and by removing pollutants such as ozone, particulate matter, and carbon dioxide from the air, thus also reducing the greenhouse gases that cause global warming. Trees provide shade and can decrease temperature in surrounding areas and save on energy costs by reducing the need for air conditioning. They absorb and clean, through their natural processes, polluted urban runoff - the primary cause of ocean pollution. And, trees provide aesthetic benefits, improving quality of life and raising property values."

The initiative also included a tree canopy study that showed that Los Angeles had a 21% tree canopy cover below the national average of 27%. The tree canopy analysis maps also identified the areas that had tree coverage of less than 20%. Most of those areas correspond to low- or moderate income neighborhoods in the city that have few recreational opportunities and inadequate parks and open space. Some of these area residents were subject to poor health based on a City study that imposed a fast food ban as a panacea. Residents in these areas are even less likely to have the financial capacity to repair sidewalks, plant or maintain street trees. This action would deprive them of a pleasant pedestrian experience, further degrade their neighborhoods and quality of life and the urban forest overall.

While other cities like Pasadena have shifted the responsibility for sidewalk maintenance to property owners, there are a few crucial differences in the administration. Pasadena conducted an inventory of existing tree canopy coverage and found that as of the year 2010; only 5.4% of sidewalk tree locations were vacant. Los Angeles has no such inventory of sidewalk trees; a baseline study should be done before any significant policy changes are adopted. Further, Pasadena's Tree Ordinance, adopted in 2002, makes it very difficult for the removal of public trees where an Urban Forestry Committee holds

public hearings on such requests, and the city levies fines of up to \$1,000 for damaging or destroying city trees in the public parkway. LA does not have this mechanism. Another important distinction between Pasadena and Los Angeles is that Pasadena trims every tree in the public parkway, including pruning tree roots. Thus, property owner liability for sidewalk repair is manageable. This is an example of reasonable responsibility sharing that is missing in the proposed Los Angeles ordinance.

We need more trees as specified by the Mayor's initiative and the City Planning Department's guidelines of "Do Real Planning" to landscape in abundance—by adding trees to create an urban forest. This sustains a healthy, quality environment and benefits the air quality in Los Angeles and beyond.

Sincerely,

*Madhu Kumar*

Madhu Kumar

626-318-1938

**Madhu Kumar - 626.318.1938**

**Los Angeles Department of Planning, through 2010** - City Planner with over 20 years in every aspect of land use planning and in-depth knowledge of environmental laws, zoning code and community plans. Well versed in sustainable policies regarding air quality, transportation, and housing to create healthy communities. As a hearing officer, held public hearings on both legislative and quasi-judicial discretionary actions, reviewed complex environmental documents and imposed environmental mitigation conditions on development projects and presented recommendation reports to the City Planning Commission and City Council's Planning and Land Use Management Committee.

**Commissioner, Environmental Advisory Commission, City of Pasadena, 2007 - 2010**

Pursued policies for Pasadena to be an environmental leader on the first such commission in the city to create a sustainable, safe and healthy environment for all residents. Established environmentally responsible policies for energy and water use, air quality, transportation, waste reduction, economic development, open space, and natural habitats. Advised the City Council with policy recommendations in support of the goals and objectives of the City's Environmental Charter and monitored and guided the Green City Action Plan.

**Commissioner, Utility Advisory Commission, City of Pasadena, 2006 - 2007**

Provided policy recommendations to the Department of Water and Power on its 20-year Integrated Resource Plan (IRP) to ensure reliable and environmentally responsible electric service, competitive rates and energy independence.

**Member, Open Space / Conservation Element Advisory Committee, City of Pasadena, 2008 - 2010**

Provided policy directives established by the City Council and community groups to ensure that this Element fulfills all those goals.

**Education:** Masters in Architecture and Urban Planning, UCLA

LA's Solution to Its \$1.2 Billion Crumbling Sidewalks Crisis: Stick It to the Owners

07.21.2011

Jack Humphreville



LA WATCHDOG

- In 2007, the Bureau of Street Services estimated that 4,600 miles (43%) of our 10,750 miles of sidewalks are in some state of disrepair. The cost of repair was estimated to exceed \$1.2 billion, or over \$260,000 per mile.

Yet the City was so broke that it suspended the popular Voluntary 50-50 Sidewalk Repair Partnership where the property owner and the City split the cost of repair.

So how does the City intend to pay for these needed repairs? Very simple: just pass a law that unilaterally sticks it to the owners of single family residences, apartment buildings, and commercial establishments.

In response to a request from the Garcetti led City Council, the City Attorney prepared an ordinance that would repeal an exception to the Los Angeles Municipal Code "which established City liability for repair or reconstruction of curbs, driveways, and sidewalks required as a result of tree root growth."

But as a special concession, the proposed ordinance would increase the owners' required response time from two weeks to 90 days.

This ordinance would then permit the City to implement a Point of Sale program where the sellers of a property would be required to obtain a Safe Sidewalk Certificate from the Bureau of Street Services prior to the close of escrow. Other programs may also be developed where Certificates must be obtained for building permits in excess of \$20,000 or which require Explicit Enforcement in commercial zones since property turnover is less frequent.

But this is just another one-off program that was developed by City Hall designed to transfer the City's \$1.2 billion obligation to property owners without the development of a well thought out operational, financial, and strategic plan for the entire 10,750 miles of City sidewalks, curbs, and driveways.

Nor has the Bureau of Street Services or the Board of Public Works made any effort to include or educate Neighborhood Councils or the owners of homes, apartment buildings, or commercial establishments. Nor does it address the sorry state of disrepair of the City's own sidewalks and those of other government entities such as LAUSD.

The Bureau of Street Services and Board of Public Works need to develop an operational, financial, and strategic plan that includes the input and active involvement of the Neighborhood Councils and the impacted property owners.

The plan must address the short term needs and the long term requirements necessary for the Bureau of Street Services to maintain our 10,750 miles of sidewalks. It must also consider other alternatives to the

Point of Sale program which dumps the \$1.2 billion liability on the property owners.

For example, since sidewalks are a capital asset, the City should consider financing the repair and reconstruction of our sidewalks with long term bonds that are the obligation of the General Fund.

Or the City might consider the reintroduction of the Voluntary 50-50 Sidewalk Repair Partnership, again financed through the issuance of long term general obligation bonds.

And it may be more economical for the City and property owners to have the option to rely on qualified third party contractors rather than very expensive City work crews. Or the Bureau of Street Service might recommend the elimination of sidewalks on one side of the street if a neighborhood was willing to adopt such a program.

However, one of the most troubling aspects of our crumbling sidewalks is the abject failure of the Board of Public Works to oversee the Bureau of Street Services and the maintenance and repair of our sidewalks. This Villaraigosa appointed Board has been asleep on the job, despite the fact that it costs the City over \$1 million a year to pay these five Commissioners, none of which have any meaningful organizational, management, technical, or financial experience or expertise. But not too worry, four have legal backgrounds.

On top of the hefty compensation and benefits for the five anointed Commissioners, the fully loaded budget for the Board of Public Works is almost \$25 million.

The Board of Public Works is the third largest department in the City, with around 5,000 employees and a budget of almost \$2 billion. It oversees not only Street Services, but Contract Administration, Engineering, Sanitation, Street Lights, Sewers, and Storm Water.

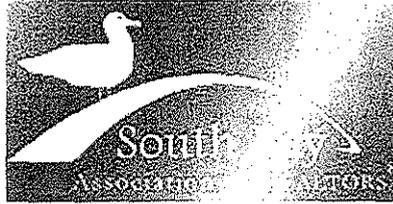
Unfortunately, the \$1.2 billion obligation related to the sidewalks is peanuts compared to \$15 to \$20 billion that is needed to repair and maintain the lunar cratered streets of Los Angeles, the street lights, the aging sewers, and the storm water system.

It is time for the termed out Mayor, the lap dog Controller, the Garcetti led City Council, and the Board of Public Works to come clean with the citizens of Los Angeles and face up to the very pressing financial obligations of our failing infrastructure and their impact on the City's very solvency.

*(Jack Humphreville writes LA Watchdog for CityWatch He is the President of the DWP Advocacy Committee and the Ratepayer Advocate for the Greater Wilshire Neighborhood Council. Humphreville is the publisher of the Recycler -- [www.recycler.com](http://www.recycler.com). He can be reached at: [lajack@gmail.com](mailto:lajack@gmail.com)) -cw*

Tags: Board of Public Works, Los Angeles, sidewalks, broken sidewalks, Eric Garcetti, City Controller, Mayor Villaraigosa, Bureau of Street Services, Point of Sale Program, 50-50 Sidewalk Repair Program, LAUSD

CityWatch  
Vol 9 Issue 58  
Pub: July 22, 2011



## Memo

**From:** South Bay Association of REALTORS  
Beverly Hills/Greater Los Angeles Association of REALTORS  
Pasadena-Foothills Association of REALTORS  
Glendale Association of REALTORS

**Contact:** David Kissinger, (310)326-3010

**Date:** September 23, 2009

**Re:** Sidewalk Repairs at the Point-of-Sale

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Attached hereto is a report intended for inclusion with Council File 05-1853 and related documentation for the proposal to repair broken sidewalks in the City of Los Angeles at the Point-of-Sale.

This document is written in response to "Putting California Cities Back on Their Feet", an academic paper written by Dr. Donald Shoup and published in the UCLA journal *California Policy Options* on March 18, 2009.

## Putting California's Cities Back on Their Feet – Only to Trip Again

The Realtor community in the City of Los Angeles has for several years worked with the City of Los Angeles and its respective departments to craft a mechanism for repairing broken sidewalks. The scale of such disrepair is well-documented elsewhere; suffice it that all parties agree that the current conditions of broken sidewalks cannot continue.

A paper published on March 18, 2009 by UCLA professor Dr. Donald Shoup in the journal *California Policy Options* calls for the use of “point-of-sale” (“POS”), where broken sidewalks are to be repaired at the time of selling a home. In fact, the practice of POS is perhaps the least efficient, most expensive, and most risky solution for addressing the daunting task of repairing 4,600 miles of broken sidewalks in the City of Los Angeles (“City”).

Furthermore, the paper – hereinafter referred to as Shoup (2009) – excessively exaggerates the promised benefits of POS and contains improperly analyzed data, incorrect conclusions, and claims about properties, real estate, and Realtors that are simply wrong. In this document we seek to address the specific analysis in Shoup (2009) and show how that paper's own data disprove the effectiveness of POS.

### **The Speed of Repairs, or Lack Thereof: How many sidewalks would be fixed with point-of-sale, exactly?**

Shoup (2009) makes arguments in favor of POS, and purports to show how POS benefits public safety, job growth, and macroeconomic benefits to the region. Why wouldn't we implement POS right away? Yet POS's inherent inefficiencies shine again and again, whether in Shoup 2009, the City's February 12, 2008 Staff Report on POS sidewalk repair (“Staff Report”), or in the economic data itself.

In fact, Shoup (2009) itself bases much of its pro-POS argument on an improper application of housing data; this error is significant because Shoup's assumption about the number of sidewalks that would be physically repaired – were it only that the City had implemented POS – is far higher than that paper's own data allow.

The trouble begins with housing data in Table 1 as reported in Shoup (2009, 129). It describes the number of all properties in the City of Los Angeles sold at least once from 1977 to 2006. Based on this data, the paper concludes that “[i]f in 2000, the city had

begun requiring owners to repair any broken sidewalk at sale, 36 percent of all sidewalks in the city would have been fixed over the next seven years” Shoup (2009, 128).

During that period of time under POS, those properties may have been **inspected**, however not necessarily **fixed**. This important distinction occurs because not every property for sale has a broken sidewalk in front of it. 4,600 miles of the city’s 10,750 miles of sidewalk are in disrepair, or 43%. This suggests that 57% of sidewalks in the City are in acceptable condition and do not need repair. (It also assumes that a POS program will apply equally to residential and commercial properties).

Let’s assume for the moment that, all other things equal (“*ceteris paribus*”), 43% of all properties **for sale** in the City need sidewalk repairs. This belies the statement in Shoup (2009, 128) that “36 percent of all sidewalks in the city would have been **fixed** over the next seven years” (our emphasis), because this assumes that 100% of all those homes sold in that time needed sidewalk repair. The data show that they do not. There is no demonstrated statistical correlation between properties for sale and properties with broken sidewalks.

All other things equal, then at most 43% of that 36% of “all sidewalks in the city” would have, in theory, been “fixed”; in other words, after seven years only 15.5% of those properties would have been actually repaired.

In addition, if we reexamine the data using figures supplied by the City of Los Angeles Department of Planning, closer to 21% of all units would have been inspected (not necessarily fixed), rather than 36%. This is because we compare properties sold to the total number of **units** in the city, not properties (Table A). If 43% of that 21% needed repair, *then just 9% of properties with broken sidewalks would have been repaired in seven years, at the rate of barely one percent a year.*

**Table A** below replicates Table 1 in Shoup (2009, 129), and also incorporates (in red) our data obtained from the Department of Planning.<sup>1</sup> A repair rate of one percent a year is more consistent with our belief that, in any given jurisdiction, approximately 2-4% of housing stock sells per year, regardless of market conditions.

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<sup>1</sup> **Footnote on unit counts.**

Data in Table A are different than that which is cited in Shoup (2009, 129), possibly because here we are measuring housing **units**, rather than **properties**. POS triggers a government action each time a housing **unit** is transacted; this is important because many properties have more than one unit. In fact, according to the Los Angeles Planning Department’s 2008 Housing and Population Estimate, 61% of all housing units in the City are on multifamily properties.

It is unclear in Shoup (2009) whether this distinction is indicated in the data. However, for the purpose of analyzing the data in Shoup (2009) as described in Table A, we assume that one property = one unit. This has the effect of skewing the data in *favor* of POS, because otherwise only the first unit sale in a multifamily building should in theory trigger an inspection (but not necessarily a “repair”), while subsequent near-term unit sales in that same multifamily building may render an inspection unnecessary. Nonetheless, government action is still triggered in escrow, because the City needs to make that determination. As shown in this document, even with data skewed in favor of POS, it still falls short.

Finally, the “36%” conclusion is a misapplication of the data, where Shoup (2009) starts by observing that “36% of all **properties** were sold at least once between 2000 and 2006”, and therefore “36 percent of all **sidewalks**... would have been fixed” (our emphasis; Shoup (2009, 128)). The analysis of the data is called into question due to the free mixing of the terms “property”, “unit”, “home”, and “sidewalks”.<sup>2</sup>

### POS is better than nothing?

While POS may seem an improvement over doing nothing, it still struggles under its own weight. The City’s Staff Report (Staff Report, 18) found that “...the BSS [Bureau of Street Services] has experienced a substantial increase in cost when reconstructing one property frontage at a time (double the cost).”

POS, by definition, contemplates reconstructing “one property frontage at a time”, because in almost every instance the adjacent and abutting properties are not simultaneously in a point-of-sale situation (i.e., escrow). In other words, any purported benefit achieved by POS will be significantly reduced by the doubled costs incurred during repair.

Furthermore, while we state above that all other things are equal (*ceteris paribus*) for the purpose of this analysis, things are in fact not equal at all. There is probably no perfect distribution of exactly 43% broken and 57% smooth sidewalks among houses for sale in the City. Such data at any exact moment is largely unknowable, as is the question of precisely where and when the next unit (or “property”) will be sold. Because such information cannot be known, even in the best of real estate markets, it is questionable at

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<sup>2</sup> **Footnote on Units vs. Properties.**

Shoup (2009) appears to mix definitions in a manner that leads to incorrect conclusions of the data. It is important to make the distinction between “units” and “properties”, because Realtors and real estate professionals transact individual units (i.e. such as condos or units in a multifamily setting) and not just whole properties. For the purpose of our analysis herein, we use the following definitions and assumptions:

- **Property or parcel.** A piece of real property as defined by the Los Angeles County Recorder, irrespective of what building(s), unit(s), or use(s), if any, are on that property.
- **Unit.** A dwelling or dwelling unit (du) in which lives an individual, family, or household. More than one unit may be on a given property. In the City of Los Angeles, 61% of all housing units in the City are on multifamily properties (Los Angeles Planning Department’s 2008 Housing and Population Estimate).

Assumptions:

- **Sidewalk frontage.** A single family home on a standard 50 x 100 foot parcel is assumed to have 50 linear feet of sidewalk frontage abutting it. This is by no means the case for every City parcel.
- At 50 linear feet of sidewalk per parcel, one mile of sidewalk is assumed to equal 105.6 parcels.
- It should not be assumed that a sidewalk repair will require fixing or replacing the entire 50 linear feet abutting a parcel.

best why a government agency would base a program for public safety, route of travel access, and economic growth on a trigger that is so unreliable.

### California's Cities Can't Find Their Feet

This error in Shoup (2009) has far reaching ramifications for the remaining claims in this paper, and call into question just how viable and reliable any POS program can be. Below is a detailed review of specific parts of Shoup (2009) and how they stand up to scrutiny:

#### Statement:

"[I]f the program had begun 11 years earlier (in 1995), 50 percent of all sidewalks would have been repaired by 2007" (Page 128).

#### Scrutiny:

This is incorrect. Shoup (2009) again confuses "inspection" with "repair" and overstates the claim. If we compare the percentage of units sold each year (and we still assume that one unit = one property) with the total number of units (not properties) in the City according to the Department of Planning, then properties (not units) inspected (not repaired) would be 29%, not 50%. However, if we assume that just 43% of sold properties (not units) actually required repair, then just 12% of properties in the City would be fixed, which over 12 years (1995-2006 inclusive) is **at the rate of one percent per year – and at double the cost!**

#### Statement:

"If the City Council had also adopted a point-of-sale program for sidewalks in 1997, about 1,060 miles of broken sidewalks (4,600 x 46%) would have been repaired by 2007" (Page 133).

#### Scrutiny:

This is incorrect. Again, the same false claim is now made three times using three different portions of the same data. This statement assumes that every one of those homes needs sidewalk repair. If, in keeping with citywide statistics, only 43% of those homes (i.e. "properties") needs sidewalk repair, then at most 20% (43% x 46%) of broken sidewalk miles (not "properties"?) would have, in theory, been repaired.

But that conclusion is still incorrect; because the statement shifts to "sidewalk miles" rather than "properties" or "units", it assumes that in every one of those homes sold with broken sidewalks, the full 50-linear-foot sidewalk frontage would need to be replaced. Even without the benefit of reviewing more data, this is patently incorrect and can be borne out by a looking at a small sample of *properties* in need of repair and seeing how most damage from tree roots does not require repair of the full 50 linear feet. Trees are powerful beings, but not that powerful.

**Statement:**

The “[e]stimated regional effects of shifting \$72 million from private consumption to public investment in Southern California” from the first year of a POS program in the City of Los Angeles will create a net of:

- 94 jobs
- \$4,700/year average wage increase
- \$11 million total wage increase
- \$6 million increased proprietary income per year
- \$17 million increased total labor income per year

(Pages 130-132)

**Scrutiny:**

This is incorrect. These numbers are exaggerated because they assume that every home sold will get its sidewalk repaired. If 43% of the of properties (not units) inspected need repair, then it stands to reason that a public investment of \$31 million (not \$72 million) would create a much lower economic benefit.

Furthermore, any such economic benefit would occur by the use of other repair programs as well, not just POS. Any solution would require a transfer of funds from the property owner to the city for the purpose of repair; require funding by way of bonds or taxation; require increased government spending from existing public funds; or require that the owner engage a private contractor to do the repair. Due to these conditions, any sidewalk repair solution may reduce private consumption that occurs outside of the region. Much as Shoup (2009, 132) correctly states that “we cannot import sidewalks” from other countries, we also cannot import the repair work; the concrete is not poured in another country and then dropped cleanly into place in Los Angeles.

Whatever economic benefits are derived by POS as implied in Table 2 (Shoup (2009, 131)) would also be derived in a similar fashion by other repair solutions, which do not enjoy the same level of analysis in Shoup (2009). In pure economic terms, POS is better than doing absolutely nothing, however it is simply false to claim that POS should be adopted for its job creating and economic growth potential.

**Statement:**

“At the very least, the model results show that the point-of-sale program will not *hurt* the economy” (author’s emphasis, page 132).

**Scrutiny:**

That is maybe not the strongest selling point for any government program. In fact, it may not be correct either. As already demonstrated, the repair costs incurred by POS can be double that of a more systematic, efficient solution that does not depend on the desires or the personal/financial situations of individual consumers.

It also does not consider the opportunity costs due to the slowness of POS and the wasted city resources (inspections, permit processing, record keeping, labor, overhead) that are

spent in dealing with the remaining 57% of city sidewalks in front of homes for sale that need no repairs at all.

### **Back to Basics**

Given the ineffectiveness and excessive costs of POS, as described here and ironically shown in Shoup (2009) itself, there must be, as we've argued elsewhere, a better way.

At a minimum it is inappropriate to tag Realtors as "extremely shortsighted" and is professionally irresponsible to claim, in a peer-reviewed academic journal, that "realtors want the right to broker the sale of property that endangers pedestrians, impedes the disabled, and increases the city's liability for trip-and-fall lawsuits." We cannot imagine how any businessperson can with a straight face conduct business to such an end.

Realtors all over the United States operate with a strictly enforced code of ethics under the authority of the National Association of REALTORS® and take their responsibilities for proper disclosures and ethical behavior very seriously. The author of Shoup (2009) is cordially invited to see how Realtors actually work and under what conditions before jumping to such wild and wrong conclusions as are apparent in his academic paper.

A new and wider-ranging study of the real estate transaction process is warranted before further progress on this matter. For even POS is not, as Shoup (2009) correctly states, free from the political process. In fact, Shoup (2009, 134) argues that "exempting foreclosures and short sales from the point-of-sale requirement can remove a political objection", despite the fact that such exemptions would make POS even *less* effective, because even fewer properties are addressed. After all, does one want to actually repair sidewalks, or not?

Whatever Shoup (2009, 135) observes about the "abuses in the real estate industry, including no-documentation, subprime loans to people who could not afford the properties they bought" does not somehow make POS better. Sidewalk repair should not be a punitive measure to right unrelated wrongs, but rather a positive goal for improving public safety, economic growth, and pedestrian access.

But perhaps the weakest point of POS comes out in Shoup (2009, 135): "To achieve economics of scale in the process, the city can wait until it has accumulated a substantial number of orders in a neighborhood, and then make all the repairs at the same time." In the process of trying to eliminate that doubled cost mentioned above by using a more efficient means to actually do the physical repairs, the city (and residents) will have to wait a long time.

At the rate of 2-4% per year in any jurisdiction (including any Council District, Community Plan Area, Area Planning Commission, etc.), it will be several years before the work actually gets done. The Staff Report states that it may take three years before

actual construction occurs. Not only does this excessive delay expose the City and residents to ongoing risks of trip-and-fall injuries for several more years, but it also reduces any economic benefits as claimed in Shoup (2009) in Table 2, because that public investment occurs not in one year, but over several.

Finally, a multi-year delay in repairs appears inconsistent with the requirements under Proposition 218, which “specifies that no property-related fee may be ... Imposed for a service not used by, or **immediately** available to, the property owner.” (“Understanding Proposition 218”, our emphasis).

### **Conclusion: The Point-of-No-Return**

We stated elsewhere that “we strongly protest the suggested Point of Sale mandate for sidewalk repair” and we repeat that protest here. We make it abundantly clear that we do so not only on behalf of the real estate industry, on whose behalf it is our right to advocate, but also for the benefit and interests of the City of Los Angeles and its residents. We claim in good faith that other and better solutions are available and we seek the continued opportunity to explore those measures.

###

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Table A: A new look at real estate sales in the City of Los Angeles

Year	Number of properties with last sale date in each year	Total number of properties sold since each year	Share of all properties sold since each year	Los Angeles Department of City Planning: Population & Housing Estimates						
				All Units	Single Family	Multifamily	Percent of all existing units of that year	Share of all units sold since each year		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)		
2006	45,327	45,327	6%	1,372,000	535,000	828,000	3.30%	3.30%		
2005	47,470	92,797	12%	1,353,000	527,000	817,000	3.51%	6.81%		
2004	44,921	137,718	18%	1,353,000	527,000	817,000	3.32%	10.13%		
2003	43,127	180,845	24%	1,349,000	527,000	812,000	3.20%	13.33%		
2002	38,155	219,000	28%	1,344,000	526,000	809,000	2.84%	16.17%		
2001	30,984	249,984	33%	1,337,654	n/a	n/a	2.32%	18.48%		
<b>2000</b>	<b>27,412</b>	<b>277,396</b>	<b>36%</b>	<b>1,337,654</b>	<b>523,563</b>	<b>803,703</b>	<b>2.05%</b>	<b>20.53%</b>		
1999	27,169	304,565	40%	1,300,025	n/a	n/a	2.09%	22.62%		
1998	24,982	329,547	43%	1,300,025	n/a	n/a	1.92%	24.55%		
1997	21,453	351,000	46%	1,300,025	n/a	n/a	1.65%	26.20%		
1996	18,964	369,964	48%	1,300,025	n/a	n/a	1.46%	27.65%		
1995	16,129	386,093	50%	1,300,025	n/a	n/a	1.24%	28.89%		
1994	15,679	401,772	52%	1,300,025	n/a	n/a	1.21%	30.10%		
1993	13,793	415,565	54%	1,300,025	n/a	n/a	1.06%	31.16%		
1992	11,930	427,495	56%	1,300,025	n/a	n/a	0.92%	32.08%		
1991	11,279	438,774	57%	1,300,025	n/a	n/a	0.87%	32.95%		
1990	10,970	449,744	58%	<b>1,300,025</b>	<b>511,975</b>	<b>764,271</b>	<b>0.84%</b>	<b>33.79%</b>		
1989	12,571	462,315	60%							
1988	15,359	477,674	62%							
1987	16,886	494,560	64%							
1986	18,873	513,433	67%							
1985	13,275	526,708	68%							
1984	10,259	536,967	70%							
1983	8,848	545,815	71%							
1982	5,967	551,782	72%							
1981	6,086	557,868	73%							
1980	7,118	564,986	73%							
1979	10,130	575,116	75%							
1978	10,369	585,485	76%							
1977	10,473	595,958	78%							

1. Data in black are replicated from Table 1 in Shoup (2009, 129): "Share of all properties in the City of Los Angeles sold at least once between January 1 of each year and December 31, 2006."

2. Data in red are amounts in units, according to the Los Angeles Department of City Planning Population & Housing Estimates

3. Single family (6) and multifamily (7) unit counts are unavailable from the Department of Planning where indicated by "n/a".

4. In each year where single family and multifamily unit counts are unavailable, the total unit count citywide (5) is conservatively assumed to be that of the U.S. Census estimate of the previous decade's count, i.e. 1998's unit count is assumed to be that of 1990 as indicated in the U.S. Census report for that decade.

**From:** "James W. Litz" <jwlitz@jameswlitz.com>  
**To:** <adam.lid@lacity.org>  
**Date:** 5/20/2009 1:00 PM  
**Subject:** For the Record - Public Works 5/20/09

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**To:** Public Works Committee

**From:** David Kissinger, South Bay Assoc. of REALTORS

Laura Olhasso, Pasadena/Foothills & Glendale

Assoc. of

REALTORS

James Litz, Beverly Hills/Greater Los Angeles

Assoc. of

REALTORS

**Date:** May 20, 2009

**Re:** Sidewalk Repair Proposal, Item #7

The local associations of REALTORS remain OPPOSED to a sidewalk repair at point of sale ordinance as proposed by the 2009-2010 Budget. Point of Sale, at best, would only repair 1-2% of the city's 6,500 miles of sidewalks.

We request that the Public Works Committee direct staff to explore and analyze alternative proposals to accomplish a greater number of repaired sidewalks annually.

\* Citywide Mandate for Sidewalk Repair - Greater Public Safety and Accessibility for sidewalks is a goal that should be addressed citywide.

Establishing a citywide repair mandate with a 5-10 compliance period would keep employees working and accelerate the goal of safe sidewalks citywide.

\* Revenue Anticipation Bonds - As the City's May 2007 report shows, 78% of the residents support a bond measure to fund sidewalk repairs.

Revenue Anticipation Bonds would allow the City to collect revenue through assessment to pay the bonds and make repairs. Employees will have sufficient work, funded by the Assessment.

\* Benefit Assessment Districts - Allow Neighborhood Councils to float

the idea of creating Benefit Assessment Districts to raise funds for sidewalks, curbs, street repairs, street trees, lighting , and street furniture. The neighborhoods would determine their own priorities with the knowledge that the City would not be making sidewalk repairs. This proposal would keep employees working on a regular basis and expand to a multi-year program for improvements to the District.

\* Expand 50/50 program - While the City Council has chosen to discontinue the present 50/50 program, we envision a 50/50 program that would allow Neighborhood Councils to participate in the program with the homeowner. The City employees would perform the repair work, funded by the Neighborhood Council and the homeowner.

We remain committed to these alternatives over a stand-alone point of sale proposal and are committed to working with the Committee to find ways to create safe sidewalks citywide.

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The Daily News of Los Angeles

November 18, 2010 Thursday  
VALLEY EDITION**Quality of life drops again for residents**

SECTION: NEWS; Pg. A1

LENGTH: 455 words

City leaders can't say they weren't warned.

Three weeks ago I wrote about how the budget crunch has eliminated preventative tree trimming in the city of Los Angeles, and I mentioned that residents of Lopez Street in Woodland Hills were concerned about falling limbs from giant eucalyptus trees on their block.

Well, on Saturday, a massive tree limb did come down - right on Brandon Newberry's Dodge Magnum, crushing the windshield and hood and flattening the driver and front-side passenger roof.

Newberry heard the crash of the falling limb, but assumed it was a car collision on nearby Topanga Canyon Boulevard. Then he walked outside to his car to drive to the gym and saw the damage.

"If I had been in my car five minutes earlier, it could have been tragic. It would have been a murder scene instead of just a car with a tree on it," Newberry told me.

As I reported in the Oct. 28 column, the city has responsibility for maintaining the trees in the public right of way. So, Newberry should be able to file a claim with the city for his totaled car. (The city is already facing a claim from 2009, when another eucalyptus on the street dropped a limb on a car.)

While the city has responsibility for the tree, the homeowner - in this case the Newberrys - owns the tree. But they can't trim the tree or remove the tree without city permission. And they can't force the city to properly maintain the trees. This has caused friction between homeowners and the city - especially on Lopez Street.

The residents have filed at least four requests with the city's Urban Forestry Division for tree inspection, removal or pruning. So far, residents have been rejected because the trees weren't dead, sick or a public safety risk - conditions in which the city will remove the tree on the taxpayer dime.

Indeed, an Urban Forestry supervisor inspected the offending tree when the city removed the limb from Newberry's car. The tree is healthy. It's just big. And when big trees drop limbs, they cause a lot of damage.

The answer, said Assistant Chief Forester Ron Lorenzen, is regular, preventative pruning. But, the city is now on a 30-year pruning cycle because of budget cuts. So expect a lot more fallen limbs.

I see Newberry's crushed car as a sign of things to come in Los Angeles. The city doesn't have the money to do the preventative maintenance that keeps the public

infrastructure in working condition. Potholes won't get filled as quickly, meaning more busted tires and swerving drivers. Graffiti won't get removed, which potentially spurs more graffiti and lowers the property values in communities. Yet, the city - and the public - is still on the hook for the cost that comes from falling limbs, bad streets and quality of life crime.

LOAD-DATE: November 18, 2010

LANGUAGE: ENGLISH

NOTES: Kerry Cavanaugh is an editorial writer and columnist for the Los Angeles Daily News. She can be reached at [kerry.cavanaugh@dailynews.com](mailto:kerry.cavanaugh@dailynews.com)

PUBLICATION-TYPE: Newspaper

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The Daily News of Los Angeles

October 28, 2010 Thursday  
VALLEY EDITION

## Tree limb removals fall to city budget ax

SECTION: NEWS; Pg. A1

LENGTH: 456 words

Kerry Cavanaugh is an editorial writer and columnist for the Los Angeles Daily News. She can be reached at [kerry.cavanaugh@dailynews.com](mailto:kerry.cavanaugh@dailynews.com)

If a tree branch falls in the city, how long will it lie on the ground before someone removes it?

A lot longer than it used to. Budget cuts, early retirements, layoffs and transfers have slashed the city of Los Angeles' Urban Forestry staff from 230 employees earlier this year to fewer than 100 today.

The result? City tree trimmers are now only able to respond to street tree emergencies. The division used to clean up fallen limbs in 24 to 48 hours. Now it takes as long as two weeks. Each inspector is responsible for some 150,000 trees.

Just last week, residents on Lopez Street in Woodland Hills saw a eucalyptus in the parkway between the sidewalk and street drop a massive, two-foot thick branch that narrowly missed a car. They were extra lucky - the fallen tree limb was removed after four days.

But the incident prompted Lori Kananack to question the management of street trees. "We as homeowners don't want to be sued if one of these trees, or part of one of them, come down on a car or worse," she said.

So who's responsible for the fallen limb?

The short answer is this: The city of Los Angeles has responsibility for maintenance of street trees, and if a fallen tree branch damages something, the victim can file a damage claim. But the property owner actually owns everything from the home to the middle of the street, including the offending street tree. So, the property owner still may have some legal liability for the branch.

Los Angeles Chief Forester George Gonzalez explained that the city has the responsibility to maintain the trees, but not ownership of the trees.

Of course, this can create an uncomfortable partnership between the city and property owners - and it has only gotten more uncomfortable with the city's budget crisis.

For example, regular trimming can help reduce the number of fallen limbs. The city's Urban Forestry division used to prune from 30,000 to 100,000 trees a year. This year, the division doesn't have single dollar for preventive pruning. Property owners can cut branches themselves or hire a pruner - but they need a permit from Urban Forestry.

The city will remove a tree if it's dead or poses an imminent hazard. But just because a tree is tall, old and drops a limb doesn't mean it's a public safety risk, Gonzalez said.

"If it's a mature enough tree, it will have shed a limb or multiple limbs. It's a natural process," he added.

If a property owner is still worried, she can apply for a tree removal permit. That requires a good reason to chop, a tree inspection and Board of Public Works approval. The property owner hires and pays for the tree removal.

LOAD-DATE: October 29, 2010

LANGUAGE: ENGLISH

PUBLICATION-TYPE: Newspaper

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The Daily News of Los Angeles

May 19, 2011 Thursday  
VALLEY EDITION

## Council adopts 'realistic' budget

SECTION: NEWS; Pg. A1

LENGTH: 1181 words

After months of debate, the Los Angeles City Council adopted a \$6.9 billion budget plan for next year that cuts city services, but offers compromises to appease police

## Chapter 9

# Infrastructure and Public Services

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**INTRODUCTION**

As Los Angeles approaches the 21st century, any population growth is expected to be primarily a result of resident births. To support population growth, Los Angeles needs a strong, expanding economy, healthy neighborhoods, and a tax base that can support the basic public services necessary to maintain and improve its quality of life. In order for the City to provide services that the public expects, it must embrace the vision of becoming a sustainable city: one which manages its infrastructure and public services in a manner that avoids depletion or permanent damage of its natural resources. The City must then take four interrelated actions: (a) reexamine the viability of the existing infrastructure relative to its sustainability (Is it cost effective from a maintenance and life-cycle perspective?); (b) maintain a balance between the rate of population and economic growth and the infrastructure and public services necessary to support that growth; (c) correct deficiencies in these support systems (as identified in part in (a) above); and (d) coordinate the work of policy implementing agencies so they may better support each other.

Infrastructure improvements will be required to support the needs of the City's growth and, at the same time, to replace existing facilities that have deteriorated due to age or have become obsolete. The costs for such improvements will be shared by new development and existing residents and businesses. New development's share of these costs will be in proportion to the demands that it generates.

The policies of the Framework Element in all instances are to seek solutions to public infrastructure and service deficiencies, including their expansion commensurate with the levels of demands experienced. Solutions that take advantage of interrelationships between individual infrastructure systems should be considered prior to embarking on costly single purpose centralized capital improvement projects. Where source reduction within one infrastructure system can significantly increase the volume of a much needed resource within another infrastructure system, such an opportunity should be given priority consideration. Market mechanisms should be identified and facilitated where possible and appropriate to increase the productivity of such resource transfers.

Population growth may not be directly proportional to increased demand on these facilities, as is evidenced by the reduction in service demands that can be achieved through conservation techniques. Consequently, the linkage between future growth and services will occur through the implementation of a monitoring program that provides information regarding "real" demands and service levels in order to guide public decisions regarding infrastructure and service investments. Successful application of this system would mitigate the need to restrict development to ensure adequate level of service.

The goals, objectives and policies found within this section address thirteen infrastructure and public service systems, many of which are interrelated, and all of which will help support the City's population and economy as it moves into the 21st century. The systems include:

1. Wastewater
2. Stormwater
3. Water
4. Solid Waste
5. Police
6. Fire
7. Libraries

8. Parks
9. Power
10. Schools
11. Telecommunications
12. Street Lighting
13. Urban Forest

While the streets are also part of the infrastructure system, they are addressed in Chapter 8 which deals with all transportation infrastructure.

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## STATUS OF INFRASTRUCTURE SYSTEM/FACILITIES

### Wastewater

#### *Treatment Facilities*

For its wastewater treatment needs, Los Angeles utilizes the Hyperion Treatment Plant (HTP), the Tillman Water Reclamation Plant (TWRP), the Los Angeles Glendale Water Reclamation Plant (LAGWRP), and the Terminal Island Treatment Plan (TITP). Two contract agency plants also treat some City flows: the Burbank Water Reclamation Plant, and the Los Angeles County Joint Water Pollution Control Plant (JWPCP). The Hyperion Treatment System, which consists of the HTP and the upstream TWRP and LAGWRP, provides the majority of Los Angeles' treatment needs. In this system, the upstream flows are partially treated at the two upstream plants and the remaining flows are routed to and treated at the HTP.

Wastewater generated from businesses and residences in Los Angeles, as well as from outside contract agencies, are treated at these facilities. The City has planned increases in plant capacities by the year 2010 for LAGWRP, from 20 million gallons per day (mgd) to 50 mgd, and HTP, from 420 mgd to 90% mgd. Though the former has received regulatory approval, it has not been funded by the 10-year Capital Improvements Program, and expansion at this location may or may not prove necessary by 2010. Although it is planned that the treatment plant capacities should be sufficient to sustain wastewater treatment needs in the year 2010, the unused capacities of the wastewater treatment facilities will be less than current unused capacities. To sustain growth, Los Angeles must continue to plan for increases in total treatment capacities beyond 2010.

#### *Wastewater Collection*

The City's wastewater collection and conveyance systems consists of over 6,000 miles of sewer pipelines, approximately 100,000 maintenance holes, and 55 pumping plants. Almost 50 percent of the sewers are older than 50 years, with a normal life expectancy of 50-100 years. With aging the system is experiencing structural deterioration and hydraulic deficiencies. Approximately 30 percent of the primary sewers are currently flowing above their design capacity during normal dry weather conditions. These volumes often double during a rainstorm, leading to periodic overflows from the system to the Santa Monica Bay and other receiving water bodies. It is anticipated that the hydraulic deficiencies will worsen if population growth and development occur.

The deteriorating physical condition and hydraulic capacity deficiencies of portions of the collection system will necessitate the rehabilitation or replacement of existing facilities, new sewers, new storage

facilities, pumping plant modification and rehabilitation, and development of accessory and control structures. The results of ongoing assessment and inspection programs and the availability of funding will determine the scope and timing of system improvements. Estimates indicate a 20-30 year program with a cost of approximately \$2 billion.

### *Wastewater Management Options*

The reuse of gray water offers an opportunity for demand side management. Gray water, as well as reclaimed water, can be used to supplant potable water for irrigation purposes in the urban forest. Recent legislation allowing residential use of gray water should be supported through streamlining of the permitting process. Gray water systems can reduce the wastewater stream, although the extent of this potential is unknown. Every effort must be made to ensure that gray water does not enter the stormwater system through any means.

### **Stormwater**

The 1994 Los Angeles Regional Water Quality Control Board's Basin Plan is the document that outlines the regulatory process for the protection of the beneficial uses of all regional waters. According to the Basin Plan, the City is located within three of the four major watersheds that make up the Los Angeles-San Gabriel Hydrologic Unit: the Ballona Creek, Dominguez Channel and the Los Angeles River. The revised Basin Plan also recognized the Santa Monica Bay Watershed Management Area which is comprised of the Ballona Creek and Malibu Creek watersheds (consistent with the Santa Monica Bay Restoration Project boundary). Storm drains within the City are constructed by both the City and the Los Angeles County Flood Control District (LACFCD), managed by the Los Angeles County Department of Public Works. The LACFCD constructs the major storm drains and open flood control channels, and the City constructs local interconnecting tributary drains. The City designs the storm drain system so that flows from a 10-year event will not exceed the curb height, and flows from a 50-year event will be within the street right-of-way, while the County designs for a 50-year storm event and the Federal government (Army Corps of Engineers) designs for a 100-year event.

While a comprehensive list of local storm drain deficiencies has not been compiled for the Framework Element, the current list of capital improvements provides some understanding as to where problems exist. Most significantly, two large district-proposed drainage projects would reduce existing flood hazard areas. The Army Corps of Engineers/County "LACDA" project would provide flood reduction benefits along the Los Angeles River, largely outside of the City limits. The County's Hollyhills drain project would reduce/eliminate existing flood hazards in the West Los Angeles area from the Ballona Creek northwards into West Los Angeles and the City of Beverly Hills. The County's Project 9250 would reduce the large 100-year flood plain area that lies north of Wentworth Street and south of Foothill Boulevard.

### *Stormwater Management Options*

Onsite capture of stormwater runoff through improved management of the urban forest offers still another source reduction within one infrastructure system (stormwater) that results in a transfer of a usable volume of material to another infrastructure system (water supply).

In urban areas barren of trees, rainfall runoff builds up more quickly, requiring more expensive drainage systems, to prevent local flooding and soil erosion. In neighborhoods where trees are well established, this process can be slowed, thereby allowing the stormwater a greater chance to soak into the soil, replenishing both surface moisture levels and underground water tables, and potentially reducing the flood hazard caused by the rapid flow of runoff into the stormwater catch basins and channels.

## **Water Supply**

The Department of Water and Power manages the water supply for Los Angeles. Its goal is to insure that the City's water quality and demand are met by available water supplies. The City obtains its water from the Los Angeles Aqueduct, local wells, purchases from the Metropolitan Water District, and use of reclaimed wastewater. The quantities of water obtained from these sources vary from year to year and are dependent on weather conditions and water demand.

In recent years, the long-term water supply available from the Los Angeles Aqueduct has become uncertain, and the City has committed itself to increasing the reliability of its water supply. Future increases in the use of reclaimed wastewater will help make the total water supply more reliable. The Los Angeles City Council has established a goal for the reuse of 40 percent of its wastewater by the year 2010. Reclaimed wastewater will be used for groundwater recharge, agriculture, recreation, landscaping, industry, sea water intrusion barriers, and environmental enhancement. The use of reclaimed wastewater will displace or supplement potable water supplies and therefore increase the reliability of the City's water supply.

Through a combination of continued demand side management and increased use of reclaimed wastewater, Los Angeles' future water demands can be reliably met with available water supplies.

## **Solid Waste Facilities**

The City of Los Angeles generates and disposes of a significant amount of solid waste both within and outside its borders. This waste is collected by both City staff, which service residential customers in all single and some multi-family housing, and private waste management companies, which service the remaining residential and all commercial and industrial firms. In 1990, approximately 12,000 tons of waste per day was produced in the City. In 1989, the California legislature passed the Integrated Waste Management Act (AB939), which requires all cities to divert 25 percent of their waste by 1995 and 50 percent by the year 2000. Although the actions which help the City achieve the AB939 targets will significantly reduce landfill disposal, the City will still require landfill capacity to dispose of the remaining waste.

The City has implemented many programs to divert waste from disposal facilities. These include source reduction programs such as home composting, recycling programs such as Curbside Recycling Program, and composting programs that produce the City's TopGro soil amendment. For these programs to succeed, the City should site businesses at appropriate locations within its borders that handle, process, and/or manufacture recyclable commodities to allow a full circle recycling system to develop. Recycling Market Development Zones and other Development zone areas should be utilized to bring these beneficial businesses into Los Angeles. Development and support of recyclable materials markets is one of the City's challenges in the years ahead.

For the solid waste remaining after diversion, the City will have a continuing need for solid waste transfer and disposal facilities. Currently, 26 facilities within the City have Solid Waste Facilities permits. Two are landfill disposal facilities and ten are privately operated transfer stations. The remaining are city facilities such as maintenance yards. As the capacity of the landfills located in Los Angeles is very limited, more transfer facilities will be needed to transfer waste from the collection vehicles and transport it to other, more remote landfill facilities. Capacity must be provided for the waste collected by both City agencies and private collection companies. The City, through a Request for Proposals (RFP) issued in August, 1994, has identified several landfill disposal facilities that may be accessed by truck and others that would

require the City to ship its solid waste by train. After 2001, when both of the local facilities are projected to close, transportation costs are projected to increase the cost of waste disposal for the residents and businesses in the City.

### *Solid Waste Options*

Recognition of the urban forest as infrastructure provides an incentive to manage this resource as a commodity that is a net revenue generator. Nowhere is this better exemplified than in the area of solid waste management. Currently trees are not selected for planting based on their perceived market value. Through the use of sustainable species selection and utilization of urban forest residues, tree maintenance operations can be financially sustainable.

Coordinated with the emerging Open Space policies of the City, wood mulch from chipping operations could be distributed on lands such as power line right-of-ways, railroad right-of-ways, median and parkway planting areas. Source reduction and diversion benefits from these opportunities can be maximized by coordinating the management of the urban forest with other infrastructure systems.

### **Police**

Primary police and law enforcement services are provided by the City of Los Angeles Police Department (LAPD); supplemental services are provided by the Los Angeles County Sheriff, the California Highway Patrol, the Federal Bureau of Investigation, and the Drug Enforcement Administration. The LAPD operates 18 stations within four bureaus with two new stations proposed. In 1990, the Department was staffed by a total of 8,817 sworn officers and 2,754 non-sworn support personnel citywide.

### **Fire**

Fire prevention, fire protection and Emergency Medical Service (EMS) for the City of Los Angeles is provided by the Los Angeles Fire Department (LAFD). Fire Department services are based on the community's needs, as determined by ongoing evaluations. When an evaluation indicates increased response time, the acquisition of equipment, personnel, and/or new stations is considered. As development occurs, the Fire Department reviews environmental impact reports and subdivisions applications for needed facilities. Where appropriate, construction of new facilities is required as a condition of development.

Emergency medical services are provided thorough the Bureau of Emergency Medical Services. The City standard for EMS is one and one half miles, similar to that of the desirable response distance for engine companies for neighborhood land uses. Most ambulances are accompanied by trained paramedics to provide additional service other than only transport. LAFD considers EMS to be providing adequate service.

### *Fire Management Options*

Proper management of the urban forest can provide tangible benefits for the reduction of fire threat. The greatest fire hazards exist in the hillside areas of the City. Recognition of the urban forest as infrastructure will encourage better utilization of trees as both mitigation against the impacts of fire and as a tool in fire prevention.

Improved management of the urban forest in hillside areas can contribute significantly to better fire prevention and reduction in the destructive force of fires that do occur.

## **Libraries**

Library services are provided by the Los Angeles Public Library. There are 64 public libraries with a cumulative of 940,963 square feet of building area. The LAPL standard for determining the preferred library facility square footage is based upon ranges of population within a designated area. The State of California standard is based upon 0.5 square feet of library facility per capita. When the LAPL standard is applied there are 69,613 square feet of surplus library facilities.

## **Parks**

Recreation services are primarily provided by the City's Recreation and Parks Department. The City owns a total of approximately 14,990 acres of parklands, the largest park being Griffith Park with over 4,000 acres. Included in these parklands are facilities such as horticulture centers, museums, and historic sites. Recreational services are also available to City residents from sites and facilities owned and operated by Los Angeles County (primarily beaches), the State of California, the National Park Service, and the National Forest Service.

Parks are an essential component of the greater urban forest infrastructure. Besides being managed for recreational opportunities, they are critical links in improved watershed management for increasing the local water supply, erosion control, solid waste management, greater utilization of reclaimed water, and reducing fire hazards.

## **Power**

### *Electricity*

The Los Angeles Department of Water and Power (LADWP), provides electric service to over 1.3 million customers in the City of Los Angeles. LADWP obtains 17 percent of the required power from four municipally- owned power plants within the Los Angeles basin. The remaining LADWP requirements come from sources outside of the Los Angeles Basin. The current emphasis on purchasing power from non-LADWP power systems is to improve fuel diversity, take advantage of low-priced surplus electricity and to minimize the air emissions in the South Coast Air Basin.

Electricity is distributed through an extensive network of receiving stations, distributing stations, overhead lines, and underground lines.

### *Power Management Options*

Research has been shown that for every degree of increased heat, electricity generation rises by 1% to 2%, and smog production increases by 2% to 5%. The urban heat island effect is largely caused by the concentration of buildings and paved surfaces in urban areas. Denuded landscapes, heat generating cars and machines, and pollutants also contribute. This increase in temperatures in urban areas results in a greater number of days when air quality is unhealthy or worse.

Better management of the urban forest can offset these effects considerably. Trees reduce the demand for air-conditioning. Properly planted trees can reduced energy used for cooling in individual building and can block up to 95 percent of the incoming radiation. Standards that encourage greater canopy cover of buildings and paved surfaces should be developed to take advantage of these energy and health cost savings.

## **School**

Education within the City is provided by the Los Angeles Unified School District (LAUSD). LAUSD has jurisdiction over 472 school facilities (357 elementary, 56 intermediate, and 59 high schools). Of these, approximately 18 are presently (1993) closed. Two thirds of the schools operate on the traditional calendar system (nine months of school and three months of summer vacation). One third of existing and all new schools operate on one of three multi-track year-round school calendars to maximize school facility utilization

Schools are funded through State tax revenues funneled through the County. Funds for the development of additional public school facilities are derived from State mandated fees paid by projects constructed within the City.

### **Telecommunications**

Telecommunications is an emerging field with the potential to significantly alter the way Southern Californians communicate, work, and commute. The concentration of business and population in the City of Los Angeles and rapid technological advances offer the opportunity to provide an integrated network serving as the regional hub for public and private users. Following the 1994 Northridge earthquake, the use of telecommunications expanded significantly as traditional travel corridors were closed, demonstrating the potential for such use.

### **Street Lighting**

Street lighting serves many roles in a City of the size, complexity, and history of Los Angeles: 1) a strong component of community safety relative to crime prevention and feelings of well being and safety; 2) significant architectural component of many communities; 3) a significant cultural or historic component of a community; and 4) primary component of nighttime safety for vehicles and pedestrians.

Unregulated, street lighting can contribute to negative factors in the community and the nighttime environment including glare, light trespass, and light pollution.

Two-thirds of the 7,000 miles of the streets in the City of Los Angeles are lighted by approximately 240,000 lights of approximately 300 different styles. Street lighting is not publicly financed in the city but is the direct financial responsibility of the owner of adjoining property which is considered to directly benefit from street lights. Installation of streetlights may be financed in a wide variety of ways. However, the annual operation and maintenance costs, including energy, maintenance, repair, and replacement, are financed by annual assessment to only those properties which benefit therefrom. The goals, objectives, and policies for street lighting services must meet a complex mix of community needs which should be reflected throughout the general plan. Continued emphasis should be placed on the latest technology to keep operating costs low.

### **Urban Forest**

Trees, singly, and collectively as the urban forest, provide enormous benefits to our city. They

- Provide oxygen and clean the air by absorbing pollution, including carbon dioxide (CO<sub>2</sub>), the principal greenhouse gas
- Reduce moisture loss and increase atmospheric moisture
- Block the wind, and filter noise and dust
- Protect against the sun's ultraviolet rays, reducing glare and heat, lowering surface temperatures by

five to nine degrees

- Encourage pedestrian traffic, benefitting neighborhood businesses
- Control erosion, protect the urban water shed and aid stormwater management efforts
- Provide wildlife habitat; an
- Add beauty, unity, identity, pride and value in communities and contribute to the quality of life of the City's residents.

While the urban forest includes all of the trees in the City of Los Angeles on both publicly-owned land and privately-owned land, the portion of this forest that is most vulnerable to the deleterious decisions and operations of other infrastructure systems is street trees.

## Streets

Chapter 8 of the Framework Element discusses Transportation issues, including the local street system, which is a part of the City's infrastructure. The City's street system is designed to meet a variety of needs, including: safe and efficient vehicular transportation, pedestrian access, appropriate interface with businesses and residences, stormwater drainage, and utility accommodation. Responsibility for transportation issues in the City falls jointly to the Department of Transportation, Planning, and Public Works.

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## SUMMARY OF INFRASTRUCTURE AND PUBLIC SERVICES CONDITIONS

The issues confronting Los Angeles for each of the infrastructure and public service support systems can be summarized by five key questions:

### 1. *How will the City maintain its existing infrastructure and public service systems?*

To keep its current system functioning, Los Angeles needs to adhere to a scheduled preventative maintenance program, replace outdated or worn out equipment, and make necessary infrastructure repairs in a timely manner. Most of the City's infrastructure is 20 to 100 years old and increasingly at risk of failure. Much of the equipment used for public services, such as police and fire protection, is old and could impair the quality of services available to the public if not upgraded.

### 2. *How will the City identify where, when, and how many improvements are needed for infrastructure and public service systems?*

Los Angeles needs consistent information concerning its infrastructure and public service systems, for effective capital investing. The City therefore needs to maintain up-to-date inventories of all its systems; computer models capable of evaluating the impacts of proposed projects on City-owned infrastructure; regular forecasts of each infrastructure system's needs, which can be used to guide capital improvement decisions; trigger mechanisms that can warn decision makers when and where future needs will occur; and reporting systems that enable the City to update its models. All of this information should be compiled in a Annual Report on Growth and Infrastructure, which will provide City staff, the City Council, and service providers with information that can facilitate the programming and funding of improvements or making decisions when to take other actions.

### 3. *How will the City meet its infrastructure and public service needs?*

Los Angeles will require many future improvements to City-owned infrastructure systems to comply with Federal and State laws governing clean air, clean water, and solid waste diversion. These laws establish a minimum quality of service that the City is required to provide. Because of the time that is needed to fund, plan, and build capital improvements, an annual assessment of infrastructure need provides the City options with which to meet demand.

*4. How can the City reduce the demand it places on existing infrastructure systems and provide public services at a neighborhood scale?*

Demand Side Management (DSM) enables existing infrastructure to support more people without increasing capacity. Los Angeles has DSM programs for all its infrastructure. Generally, DSM involves various conservation programs, such as the use of low-flow toilets and shower heads and solid waste recycling. Some benefits in relation to water quality and water conservation could be achieved through the increased use of permeable surfaces in new and re-developed areas. In order to fully exploit the benefits of the emerging integrated telecommunications infrastructure, the City needs to maximize the quantity of information that the system could carry.

*5. How will Los Angeles insure that its infrastructure and public services will continue to operate after an earthquake or other emergency and enable the City to quickly recover from such an event?*

The City's planned response is focused on three types of activities: prevention, planning and response. Prevention includes regular inspection and monitoring, rehabilitation, repair and retrofit activities. Planning includes a coordinated intergovernmental emergency response network and contingency engineering. Response includes emergency operations procedures such as post-disaster inspections and ad hoc City recovery programs.

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## GOALS, OBJECTIVES, AND POLICIES

The following section presents the goals, objectives, and policies related to infrastructure and public services in the City of Los Angeles. Implementing programs are referenced at the conclusion of each policy. Programs are also referenced after each policy in this document.

### WASTEWATER

#### **GOAL 9A**

Adequate wastewater collection and treatment capacity for the City and in basins tributary to City-owned wastewater treatment facilities.

#### **Objective 9.1**

**Monitor and forecast demand based upon actual and predicted growth.**

##### **Policies**

- 9.1.1** Monitor wastewater generation. (P42, 43)
- 9.1.2** Monitor wastewater flow quantities in the collection system and conveyed to the treatment plants. (P42)
- 9.1.3** Monitor wastewater effluent discharged into the Los Angeles River, Santa

Monica Bay, and San Pedro Harbor to ensure compliance with water quality requirements. (P42)

### ***Objective 9.2***

**Maintain the wastewater collection and treatment system, upgrade it to mitigate current deficiencies, and improve it to keep pace with growth as measured by the City's monitoring and forecasting efforts.**

#### ***Policies***

- 9.2.1 Collect and treat wastewater as required by law and Federal, State, and regional regulatory agencies. (P7)
- 9.2.2 Maintain wastewater treatment capacity commensurate with population and industrial needs. (P7)
- 9.2.3 Provide for additional wastewater treatment capacity in the Hyperion Service Area (HSA), as it becomes necessary. (P7)
- 9.2.4 Continue to implement programs to upgrade the wastewater collection system to mitigate existing deficiencies and accommodate the needs of growth and development. (P7)
- 9.2.5 Review other means of expanding the wastewater system's capacity. (P7)

### ***Objective 9.3***

**Increase the utilization of Demand Side Management (DSM) strategies to reduce system demand and increase recycling and reclamation.**

#### ***Policies***

- 9.3.1 Reduce the amount of hazardous substances and the total amount of flow entering the wastewater system. (P7)
- 9.3.2 Consider the use of treated wastewater for irrigation, groundwater recharge, and other beneficial purposes. (P7)

### ***Objective 9.4***

**Ensure continued provision of wastewater collection and treatment after an earthquake or other emergency.**

#### ***Policies***

- 9.4.1 Restore minimal operations as soon as possible after an emergency, and full operations as soon as feasible. (P64)
- 9.4.2 Establish joint cooperation agreements with other jurisdictions for mutual assistance during emergencies. (P64)

## **STORMWATER**

**GOAL 9B**

A stormwater management program that minimizes flood hazards and protects water quality by employing watershed-based approaches that balance environmental, economic and engineering considerations.

**Objective 9.5**

**Ensure that all properties are protected from flood hazards in accordance with applicable standards and that existing drainage systems are adequately maintained.**

**Policies**

- 9.5.1 Develop a stormwater management system that has adequate capacity to protect its citizens and property from flooding which results from a 10-year storm (or a 50-year storm in sump areas). (P8)
- 9.5.2 Assign the cost of stormwater system improvements proportionately to reflect the level of runoff generated and benefits. (P8, P66)
- 9.5.3 Implement programs to correct any existing deficiencies in the stormwater collection system. (P8)
- 9.5.4 Ensure that the City's drainage system is adequately maintained. (P8, P42)

**Objective 9.6**

**Pursue effective and efficient approaches to reducing stormwater runoff and protecting water quality.**

**Policies**

- 9.6.1 Pursue funding strategies which link the sources of revenues for stormwater system improvement to relevant factors including sources of runoff and project beneficiaries. (P9)
- 9.6.2 Establish standards and/or incentives for the use of structural and non-structural techniques which mitigate flood-hazards and manage stormwater pollution. (P8)
- 9.6.3 The City's watershed-based approach to stormwater management will consider a range of strategies designed to reduce flood hazards and manage stormwater pollution. The strategies considered will include, but not necessarily be limited to: (P8)
  - a. Support regional and City programs which intercept runoff for beneficial uses including groundwater recharge;
  - b. Protect and enhance the environmental quality of natural drainage features;
  - c. Create stormwater detention and/or retention facilities which incorporate multiple-uses such as recreation and/or habitat;
  - d. On-site detention/retention and reuse of runoff;
  - e. Mitigate existing flood hazards through structural modifications

(floodproofing) or property by-out;

f. Incorporate site design features which enhance the quality of offsite runoff; and

g. Use land use authority and redevelopment to free floodways and sumps of inappropriate structures which are threatened by flooding and establish appropriate land uses which benefit or experience minimal damages from flooding.

- 9.6.4** Proactively participate in inter-agency efforts to manage regional water resources, such as the Santa Monica Bay Restoration Project, the Los Angeles River Master Plan, the Los Angeles River Parkway Project and the Los Angeles County Drainage Area Water Conservation and Supply Feasibility Study. (P8, P65)

### ***Objective 9.7***

**Continue to develop and implement a management practices based stormwater program which maintains and improves water quality.**

#### ***Policy***

- 9.7.1** Continue the City's active involvement in the regional NPDES municipal stormwater permit. (P8, P65)
- 9.7.2** Continue to aggressively develop and implement educational outreach programs designed to foster an environmentally-aware citizenry. (P8)
- 9.7.3** Investigate management practices which reduce stormwater pollution to identify technically feasible and cost effective-approaches, through: (P8)
- a. Investigation of sources of pollution using monitoring, modeling and special studies;
  - b. Prioritization of pollutants and sources;
  - c. Conducting research and pilot projects to study specific management practices for the development of standards; and
  - d. Developing requirements which establish implementation standards for effective management practices.

## **WATER SUPPLY**

### ***GOAL 9C***

Adequate water supply, storage facilities, and delivery system to serve the needs of existing and future residents and businesses.

### ***Objective 9.8***

**Monitor and forecast water demand based upon actual and predicted growth.**

#### ***Policy***

- 9.8.1** Monitor water usage and population and job forecast to project future water needs.

(P42, P43)

### ***Objective 9.9***

**Manage and expand the City's water resources, storage facilities, and water lines to accommodate projected population increases and new or expanded industries and businesses.**

#### ***Policies***

- 9.9.1 Pursue all economically efficient water conservation measures at the local and statewide level. (P9, P63)
- 9.9.2 Develop reliable and cost-effective sources of alternative water supplies, including water reclamation and exchanges and transfers. (P9)
- 9.9.3 Protect existing water supplies from contamination, and clean up groundwater supplies so those resources can be more fully utilized. (P9)
- 9.9.4 Work to improve water quality and reliability of supply from the State Water Project and other sources. (P9)
- 9.9.5 Maintain existing rights to groundwater and ensure continued groundwater pumping availability. (P9)
- 9.9.6 Identify the needs for land and facilities necessary to provide an adequate and reliable water supply and develop those facilities in an environmentally and socially sensitive way. (P9)
- 9.9.7 Incorporate water conservation practices in the design of new projects so as not to impede the City's ability to supply water to its other users or overdraft its groundwater basins. (P7, P63)
- 9.9.8 Design projects located in hillside areas so as to maintain the City's ability to suppress wildfires. (P18, P24)
- 9.9.9 Clean or replace where necessary, deficient water distribution lines in the City. (P9)

### ***Objective 9.10***

**Ensure that water supply, storage, and delivery systems are adequate to support planned development.**

#### ***Policies***

- 9.10.1 Evaluate the water system's capability to meet water demand resulting from the Framework Element's land use patterns. (P9)
- 9.10.2 Solicit public involvement, when appropriate, in evaluating options for the construction of new and/or expansion of existing water facilities. (P9)

### ***Objective 9.11***

**Ensure, to the extent possible, the continued provision of water capacity, quality and delivery after an earthquake or other emergency.**

#### ***Policy***

- 9.11.1 Provide for the prompt resumption of water service with adequate quantity and quality of water after an emergency. (P64)

**SOLID WASTE****GOAL 9D**

An integrated solid waste management system that maximizes source reduction and materials recovery and minimizes the amount of waste requiring disposal.

**GOAL 9E**

Adequate Recycling Facility Development - expanded siting of facilities that enhance the City's reduction, recycling and composting efforts using methods and strategies that are economically, socially, and politically acceptable.

**GOAL 9F**

Adequate collection, transfer and disposal of mixed solid waste - the City shall seek to ensure that all mixed solid waste that cannot be reduced, recycled or composted is collected, transferred and disposed of in a manner that minimizes adverse environmental impacts.

**GOAL 9G**

An environmentally sound solid waste management system that protects public health, safety, and natural resources and minimizes adverse environmental impacts.

**GOAL 9H**

A cost-effective solid waste management system that emphasizes source reduction, recycling, reuse, and market development and is adequately financed to meet operational and maintenance needs.

**Objective 9.12**

**Support integrated solid waste management efforts.**

**Policies**

- 9.12.1** Prepare a 30-year policy plan that provides direction for the solid waste management decision-making process. (P10)
- 9.12.2** Establish citywide diversion objectives. (P10)
- 9.12.3** Define specific programmatic tasks, roles, and responsibilities for source reduction, composting, special waste, and public education goals, as well as an implementation schedule. (P10)

**POLICE****GOAL 9I**

Every neighborhood in the City has the necessary police services, facilities, equipment, and manpower required to provide for the public safety needs of that neighborhood.

**Objective 9.13**

**Monitor and forecast demand for existing and projected police service and facilities.**

***Policy***

- 9.13.1** Monitor and report police statistics, as appropriate, and population projections for the purpose of evaluating police service based on existing and future needs. (P42, P43)

***Objective 9.14***

**Protect the public and provide adequate police services, facilities, equipment and personnel to meet existing and future needs.**

***Policies***

- 9.14.1** Work with the Police Department to maintain standards for the appropriate number of sworn police officers to serve the needs of residents, businesses, and industries. (P11)
- 9.14.2** Support the provision of additional sworn police officers to meet the safety needs of the City. (P11)
- 9.14.3** Pursue State, Federal, and other non-conventional funding sources to expand the number of sworn police officers. (P11)
- 9.14.4** Complete all funded capital facilities in as short a time as possible. (P11)
- 9.14.5** Identify neighborhoods in Los Angeles where facilities are needed to provide adequate police protection. (P11)
- 9.14.6** Minimize the processing required to establish needed facilities and, if necessary, modify facility standards to utilize existing available structures for this purpose. (P11)
- 9.14.7** Participate fully in the planning of activities that assist in defensible space design and utilize the most current law enforcement technology affecting physical development. (P18)

***Objective 9.15***

**Provide for adequate public safety in emergency situations.**

***Policy***

- 9.15.1** Maintain mutual assistance agreements with local law enforcement agencies, State law enforcement agencies, and the National Guard to provide for public safety in the event of emergency situations. (P55)

**FIRE*****GOAL 9J***

Every neighborhood has the necessary level of fire protection service, emergency medical service (EMS) and infrastructure.

***Objective 9.16***

**Monitor and forecast demand for existing and projected fire facilities and service.**

***Policy***

- 9.16.1 Collect appropriate fire and population development statistics for the purpose of evaluating fire service needs based on existing and future conditions. (P42)

### ***Objective 9.17***

**Assure that all areas of the City have the highest level of fire protection and EMS, at the lowest possible cost, to meet existing and future demand.**

#### ***Policies***

- 9.17.1 Complete all currently funded and, as feasible, programmed fire service capital improvements by the year 2010. (P12)
- 9.17.2 Identify areas of the City with deficient fire facilities and/or service and prioritize the order in which these areas should be upgraded based on established fire protection standards. (P12)
- 9.17.3 Develop an acquisition strategy for fire station sites in areas deficient in fire facilities. (P12)
- 9.17.4 Consider the Fire Department's concerns and, where feasible adhere to them, regarding the quality of the area's fire protection and emergency medical services when developing general plan amendments and zone changes, or considering discretionary land use permits. (P1, P2, P18)

### ***Objective 9.18***

**Phase the development of new fire facilities with growth.**

#### ***Policy***

- 9.18.1 Engage in fire station development advance planning, acknowledging the amount of time needed to fund and construct these facilities. (P12)

### ***Objective 9.19***

**Maintain the Los Angeles Fire Department's ability to assure public safety in emergency situations.**

#### ***Policies***

- 9.19.1 Maintain mutual aid or mutual assistance agreements with local fire departments to ensure an adequate response in the event of a major earthquake, wildfire, urban fire, fire in areas with substandard fire protection, or other fire emergencies. (P56)
- 9.19.2 Maintain special fire-fighting units at the Port of Los Angeles, Los Angeles International Airport, and Van Nuys Municipal Airport capable of responding to special emergencies unique to the operations of those facilities. (P56)
- 9.19.3 Maintain the continued involvement of the Fire Department in the preparation of contingency plans for emergencies and disasters. (P64)

## **LIBRARIES**

### ***Objective 9.20***

**Adopt a citywide library service standard by the year 2000.**

*Policies*

- 9.20.1 Develop library standards dealing with the facilities' net floor area, the appropriate number of permanent collection books per resident, and their service radius. (P13)
- 9.20.2 Develop a citywide policy for locating non-English language permanent collections. (P13)

**Objective 9.21**

**Ensure library services for current and future residents and businesses.**

*Policies*

- 9.21.1 Seek additional resources to maintain and expand library services. (P13, P57)
- 9.21.2 Encourage the expansion of non-traditional library services, such as book mobiles and other book sharing strategies, where permanent facilities are not adequate. (P13)
- 9.21.3 Encourage the inclusion of library facilities in mixed-use structures in community and regional centers, at transit stations, and in mixed-use boulevards. (P13, P18)

**RECREATION AND PARKS**

**GOAL 9L**

Sufficient and accessible parkland and recreation opportunities in every neighborhood of the City, which gives all residents the opportunity to enjoy green spaces, athletic activities, social activities, and passive recreation.

**Objective 9.22**

**Monitor and forecast demand for existing and projected recreation and park facilities and programs.**

*Policy*

- 9.22.1 Monitor and report appropriate park and recreation statistics and compare with population projections and demand to identify the existing and future recreation and parks needs of the City. (P42, P43)

**Objective 9.23**

**Complete all currently programmed parks and recreation capital improvements by the year 2010, contingent on available funding.**

*Policies*

- 9.23.1 Develop a strategy to purchase and develop land for parks, which is consistent with the appropriate open space policies found in Chapter 6: Open Space and Conservation. (P14)
- 9.23.2 Prioritize the implementation of recreation and park projects in areas of the City with

- the greatest existing deficiencies. (P14)
- 9.23.3 Establish joint-use agreements with the Los Angeles Unified School District and other public and private entities which could contribute to the availability of recreation opportunities. (P14)
  - 9.23.4 Pursue resources to clean-up land that could be used by the City for public recreation. (P14)
  - 9.23.5 Re-evaluate the current park standards and develop modified standards which recognize urban parks, including multi-level facilities, smaller sites, more intense use of land, public/private partnerships and so on. (P14)
  - 9.23.6 Identify and purchase, whenever possible, sites in every neighborhood, center, and mixed-use boulevard, and maximize opportunities for the development and/or use of public places and open spaces on private land in targeted growth areas. (P14, P20)
  - 9.23.7 Establish guidelines for developing non-traditional public park spaces like community gardens, farmer's markets, and public plazas. (P14)
  - 9.23.8 Prepare an update of the General Plan Public Facilities and Services Element based on the new Los Angeles Department of Recreation and Parks standards by 2005. (P2)

#### **Objective 9.24**

##### **Phase recreational programming and park development with growth.**

###### *Policies*

- 9.24.1 Phase the development of new programs and facilities to accommodate projected growth. (P14)
- 9.24.2 Develop Capital Improvement Programs that take into account the City's forecasted growth patterns and current deficiencies. (P31)

#### **Objective 9.25**

##### **Utilize park space in emergency situations.**

###### *Policies*

- 9.25.1 Continue to actively participate in emergency planning. (P64)
- 9.25.2 Continue to utilize parks and recreation facilities as shelters in times of emergency. (P64)

## **POWER**

### **GOAL 9M**

A supply of electricity that is adequate to meet the needs of Los Angeles Department of Water and Power electric customers located within Los Angeles.

#### **Objective 9.26**

##### **Monitor and forecast the electricity power needs of Los Angeles' residents, industries, and businesses.**

###### *Policy*

- 9.26.1 The Los Angeles Department of Water and Power (LADWP) shall continue to monitor and forecast its customers' peak load on its system and identify which parts of the system should be upgraded to accommodate expected growth. (P42)

### ***Objective 9.27***

**Continue to ensure that all electric power customers will receive a dependable supply of electricity at competitive rates.**

#### ***Policy***

- 9.27.1 The LADWP shall continue to generate or purchase electric power to serve its customers. (P15)

### ***Objective 9.28***

**Provide adequate power supply transmission and distribution facilities to accommodate existing uses and projected growth.**

#### ***Policies***

- 9.28.1 The LADWP shall continue to plan its power supply capability far enough in advance to ensure that it has available capacity to meet customer demand before it is needed. (P15)
- 9.28.2 The LADWP shall continue to ensure that the City's transmission and distribution system is able to accommodate future peak electric demand for its customers. (P15)
- 9.28.3 The LADWP shall continue to advise the Planning and Building and Safety Departments of any construction project that would overload a part of the distribution system during a period of peak demand. (P15)

### ***Objective 9.29***

**Provide electricity in a manner that demonstrates a commitment to environmental principals, ensures maximum customer value, and is consistent with industry standards.**

#### ***Policies***

- 9.29.1 Develop and deliver services to attract, assist, and retain industries and businesses in Los Angeles. (P15, P37, P62)
- 9.29.2 Promote the responsible use of natural resources, consistent with City environmental policies. (P15)
- 9.29.3 Promote conservation and energy efficiency to the maximum extent that is cost effective and practical, including potential retrofitting when considering significant expansion of existing structures. (P15, P61)
- 9.29.4 Provide incentives for the development of cleaner and more energy-efficient industrial development. (P15)
- 9.29.5 Deliver to all sectors of the economy customer service programs, products and activities that promote satisfaction and value related to the provision of electric power. (P62)
- 9.29.7 Encourage additional markets for electrical energy, such as environmentally friendly alternative fuel for transportation in electric buses and light-duty vehicles. (P3, P15,

P39, P61)

**Objective 9.30**

**Ensure continued electric service after an earthquake or other emergency.**

**Policy**

- 9.30.1** The LADWP shall periodically examine its emergency response programs to ensure continued electrical service. (P64)

**SCHOOLS**

**GOAL 9N**

**Public schools that provide a quality education for all of the City's children, including those with special needs, and adequate school facilities to serve every neighborhood in the City so that students have an opportunity to attend school in their neighborhoods.**

**Objective 9.31**

**Work constructively with the Los Angeles Unified School District to monitor and forecast school service demand based upon actual and predicted growth.**

**Policy**

- 9.31.1** Participate in the development of, and share demographic information about, population estimates. (P42)

**Objective 9.32**

**Work constructively with LAUSD to promote the siting and construction of adequate school facilities phased with growth.**

**Policies**

- 9.32.1** Work with the Los Angeles Unified School District to ensure that school facilities and programs are expanded commensurate with the City's population growth and development. (P16)
- 9.32.2** Explore creative alternatives for providing new school sites in the City, where appropriate. (P16)
- 9.32.3** Work with LAUSD to explore incentives and funding mechanisms to provide school facilities in areas where there is a deficiency in classroom seats. (P16)

**Objective 9.33**

**Maximize the use of local schools for community use and local open space and parks for school use.**

***Policy***

- 9.33.1** Encourage a program of decision-making at the local school level to provide access to school facilities by neighborhood organizations. (P16)
- 9.33.2** Develop a strategy to site community facilities (libraries, parks, schools, and auditoriums) together. (P16)

**TELECOMMUNICATIONS*****GOAL 90***

A networked, integrated telecommunications system that capitalizes on the region's potential as an information - telecommunications hub and is capable of providing advanced information services, which are produced by public and private providers located within the City, to all members of the public.

***Objective 9.34***

**Maintain the City's authority to regulate telecommunications in such a way as to ensure and safeguard the public interest.**

***Policy***

- 9.34.1** Strengthen the principal of local control in matters pertaining to appropriate oversight and regulation of any telecommunications entities using public right-of-ways. (P2)

***Objective 9.35***

**Create an integrated information telecommunications infrastructure system, using existing and privately and publicly-owned networks and systems as a base for growth.**

***Policies***

- 9.35.1** Support the special needs of urban emergency and public safety services and benefit the largest number of people. (P2, P64)
- 9.35.2** Standardize City licensing, franchising, and compensation practices for services related to telecommunications including service providers. (P2)
- 9.35.3** Enhance the information processing and data transfer capabilities of local governments. (P2))
- 9.35.4** Promote the internally and externally cost-efficient delivery of services and exchange of information using telecommunication systems. (P2)
- 9.35.5** Ensure that the City implements state-of-the-art telecommunications technology, consistent with current and future requirements and economic conditions. (P2)
- 9.35.6** Incorporate appropriate telecommunications requirements into all relevant local policies, plans, and ordinances. (P2)
- 9.35.7** Support appropriate initiatives or administrative actions that would provide funding to municipal governments, without jeopardizing existing funding, for telecommunications planning and implementation. (P2)
- 9.35.8** Cooperate with those public/private sector entities seeking knowledge, guidance, and/or assistance in the development of telecommunications services to the extent of the City's ability. (P2)
- 9.35.9** Financially assist and/or participate in demonstration projects that will publicly

promote and advance the development of new and expanded public telecommunications services available through an advanced telecommunications infrastructure. (P2)

### ***Objective 9.36***

**Stimulate economic growth and development through the expanded and improved delivery of advanced telecommunications services.**

#### ***Policies***

- 9.36.1** Encourage City departments and employers to adopt telecommuting, wherever practical, to mitigate traffic congestion and air pollution. (P2, P47)
- 9.36.2** Broaden home-based work regulations and fees within the limits of zoning compatibility, to promote telecommuting as a viable work alternative. (P2)

### ***Objective 9.37***

Encourage the development of a wide variety of public and private telecommunications services available to all City residents and businesses.

#### ***Policies***

- 9.37.1** Support appropriate initiatives that require the owners of property of multiple-unit residential dwellings (or their agents) to be obligated to grant access to cable television or other telecommunications service providers according to an established due process so that tenants or other lawful occupants in dwelling units with bona fide requests for service, may receive cable/telecommunications services. (P2)
- 9.37.2** Improve the City's existing emergency telecommunications systems so that it can better respond to and mitigate the impacts of various emergency situations. (P2, P64)

## **STREET LIGHTING**

### ***GOAL 9P***

Appropriate lighting required to (1) provide for nighttime vision, visibility, and safety needs on streets, sidewalks, parking lots, transportation, recreation, security, ornamental, and other outdoor locations; (2) provide appropriate and desirable regulation of architectural and informational lighting such as building facade lighting or advertising lighting; and (3) protect and preserve the nighttime environment, views, driver visibility, and otherwise minimize or prevent light pollution, light trespass, and glare.

### ***Objective 9.38***

**Ensure that street lighting designs meet minimum standards for quality lighting to provide appropriate visibility dependent on the character and usage of streets and sidewalks with minimum impact on the environment and adjoining property.**

#### ***Policies***

- 9.38.1** Require that street lighting designs meet the minimum standards adopted by the City to provide nighttime vision required by motorists and pedestrians and to protect the

City from liability. (P26)

- 9.38.2 Ensure that the street lighting system is constructed of materials and equipment adequate to ensure the appropriate service life and that adequate maintenance of the street lighting system is provided. (P24)

### ***Objective 9.39***

**Ensure that the highest level street lighting services, at the least long-term operating costs, are provided subject to due process decisions by communities for selection of street lighting equipment style and commitment to pay the costs of installation and annual operation.**

#### ***Policies***

- 9.39.1 Ensure full disclosure and due process is provided to citizens and communities consistent with City policy for selecting the style and appearance of street lighting equipment and willingness of property owners to pay related costs. (P17)
- 9.39.2 Ensure that the physical components, electrical, and optical operation for selected equipment maximizes street lighting services provided at the least cost possible; and that lighting meets the minimum City standards and minimizes or prevents light pollution, light trespass, or glare. (P17, P24)
- 9.39.3 Prohibit the installation of low-pressure sodium devices. (P17)

### ***Objective 9.40***

**Ensure efficient and effective energy management in providing appropriate levels of lighting for private outdoor lighting for private streets, parking areas, pedestrian areas, security lighting, and other forms of outdoor lighting and minimize or eliminate the adverse impact of lighting due to light pollution, light trespass, and glare.**

#### ***Policies***

- 9.40.1 Require lighting on private streets, pedestrian oriented areas, and pedestrian walks to meet minimum City standards for street and sidewalk lighting. (P24)
- 9.40.2 Require parking lot lighting and related pedestrian lighting to meet recognized national standards. (P17, P24)
- 9.40.3 Develop regulations to ensure quality lighting to minimize or eliminate the adverse impact of lighting due to light pollution, light trespass, and glare for facade lighting, security lighting, and advertising lighting, including billboards. (P17)
- 9.40.4 Establish regulations and standards which eliminate the adverse impacts due to light pollution, light trespass, and glare for the area lighting of rail yards, transit yards, trucking facilities, and similar facilities. (P17)
- 9.40.5 Develop guidelines and regulations that will promote quality lighting for recreational/sports facilities to ensure appropriate lighting with minimum adverse impact, and to ensure that such lighting facilities are not operated when recreational/sports facilities are not in use. (P17)
- 9.40.6 Placement and location of street trees shall be coordinated with the placement of street lights. (P17)

## **URBAN FOREST**

**GOAL 9Q**

A sustainable urban forest that contributes to overall quality of life.

**Objective 9.41**

**Ensure that the elements of urban forestry are included in planning and programming of infrastructure projects which involve modification of dedicated parkway, sidewalk and/or raised median islands.**

**Policies**

- 9.41.1 Develop a coordinated public works construction protocol to take into simultaneous consideration street tree placement, paving material selection, below or above ground utilities, etc. (P24)
- 9.41.2 Encourage the use of permeable paving wherever possible. (P24)

**Objective 9.42**

**Facilitate the planting of large canopied trees in street parkways. (P4)**

**Policies**

- 9.42.1 Streamline the permitting processing for planting street trees. (P24)

**Objective 9.43**

Improve City tree selection, placement and maintenance.

**Policies**

- 9.43.1 Adopt standardized procedures for tree selection that: a) minimizes potential conflicts with City infrastructure, and b) places the appropriate tree in a given site. (P24, P30)
- 9.43.2 Adopt planting standards which provide for sufficient quantity and quality of soil to help trees reach their optimum size. (P24)
- 9.43.3 Develop a uniform care standards with focus on pruning which can be utilized by appropriate City departments. (P24, P30)
- 9.43.4 Revise removal standards to address horticultural problems, aforestration and reforestration. (P30)

**Objective 9.44**

**Ensure trees are adequately maintained within fiscal limitations, and seek additional non traditional revenue sources.**

**Policies**

- 9.44.1 Seek alternative funding sources. (P30)
- 9.44.2 Provide technical assistance for tree planting and maintenance to community organizations that are creating Business Improvement Districts, Neighborhood

Improvement/Initiative Districts, etc. ([P24](#))

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## Stewards of the Living Infrastructure

The Bureau of Street Services, Urban Forestry Division manages nearly 700,000 street trees, 295 acres of landscaped traffic medians, and tree species protected by the City ordinance. Over 1,000 different tree species grow along 6,500 miles of public right-of-way, making the City of Los Angeles street tree population the largest and most diverse in the nation.

Street trees are a significant and highly visual portion of the urban forest and recognized as a vital infrastructure system essential to the quality of life in the urban environment. This living infrastructure provides the City economic, social, environmental, ecological, and aesthetic benefits.

The Bureau's Urban Forestry Division provides the following main functions:

- Prunes trees to provide pedestrian and vehicular clearance and visibility and promote health and vigor.
- Provides emergency service to correct immediate hazardous conditions resulting from fallen or defective limbs or trees in the public right-of-way.
- Removes dead or irreparably damaged street trees.
- Plants new trees to enhance the urban forest.
- Maintains and constructs landscaped or otherwise improved traffic median islands.

The Bureau's Urban Forestry Division goals are to maximize the benefits gained from the urban forest by providing optimum tree canopy cover throughout the many communities in the City. The Division will continue to encourage community involvement and private partnership, resolve conflicts between street trees and other vital infrastructure, and strive to minimize maintenance costs while ensuring the preservation of a healthy and safe street tree population.

This information sheet is provided as a public service. Hopefully, it answers the important questions regarding the management of the urban forest. If you have any further questions, please refer to the Urban Forestry Division Inspector or contact the Division at (213) 847-3077. For the hearing-impaired, the TDD number is (213) 473-3231. This and other information sheets may be obtained at the Urban Forestry Division office at 1149 S. Broadway Street, 4th Floor, Los Angeles, CA 90015.



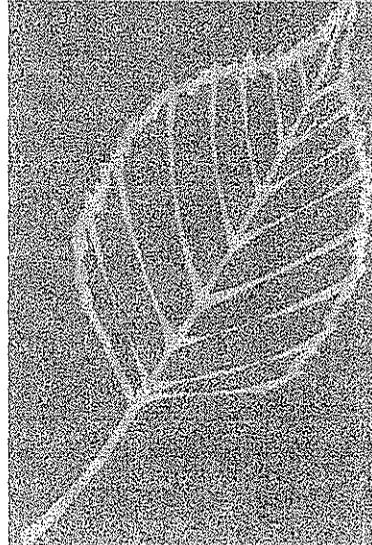
# URBAN FORESTRY DIVISION



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**STREET TREE & SIDEWALKS**

- Western Arborist Article
- New Ideas for Sidewalk Management
- 50/50 Voluntary Partnership




Protecting NATIVE TREES in Los Angeles

## Street Trees & Sidewalks

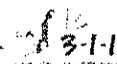
Street trees are considered by the City as one of many infrastructure elements. The Urban Forestry Division realizes that street trees at times come into conflict with other infrastructure, principally sidewalks. These conflicts may result in cracking, uplifting, sinking, or other movements that may cause a potential pedestrian hazard.

Sidewalks are, by the Los Angeles Municipal Code, the responsibility of the adjacent property owner to keep and maintain in a safe and passable condition. This responsibility includes keeping the sidewalk free and clear of fruit, leaves, twigs as well as the integrity of the concrete sidewalk itself. The City's law stems from long-accepted State statutes.

Nevertheless, the City is responsible for sidewalk damage incurred from the roots of a street tree. Due to budget constraints, the City's past practice to ensure public safety has been to apply a small asphalt repair to damaged sidewalks, regardless of the cause. In 1999, the City experimented with a pilot Sidewalk Repair Program that was enthusiastically received by the residents. In response, beginning in 2000 the City Council funded a Sidewalk Repair Program. The creation and implementation of the program fell to the Bureau of Street Services.

The program includes the removal and replacement of the damaged sidewalk as well as any work that must be performed to a street tree to enable the repair.

Powerpoint Presentation: [New Ideas for Sidewalk Management in 2005](#)

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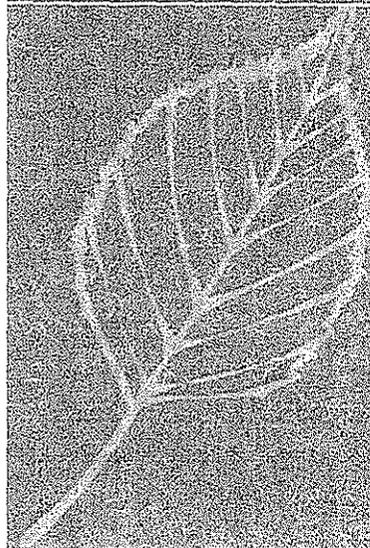


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## STREET TREE PRUNING

- Guidelines
- Where is UFD now?
- Pruning cycle

## Street Tree Pruning Cycle

The street tree pruning cycle is the length of time between tree pruning based upon the number of trees that will be pruned in the current fiscal year. Over the past fifteen years the cycle has varied from as low as five years to as high as thirty-two years.

Urban forestry profession best management practices show that a pruning cycle between three and five years is appropriate for street trees. The range is due to the differing rate of species growth and also species characteristics.

For fiscal year 2005/2006, UFD was funded to prune approximately 73,000 trees. Since the street tree population is approximately 700,000, the current tree pruning cycle is just under ten years. It must be remembered that this cycle is dependent upon the fiscal year funding levels and can, and most likely will, change annually.

UFD hopes this webpage supplies you with all of the information needed to understand the tree pruning cycle. If you need further information please contact the Division at (213) 847-3077.

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George Gonzalez - Chief Forester

Trees: A Prospectus


[Click here to learn more about Million Trees LA](#)

- Greenwaste Recycling
- Landscaped Median Islands
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## Welcome to the Urban Forestry Division - A Message from the Chief Forester

I would like to take this opportunity to welcome you to the Urban Forestry Division's website. The Urban Forestry Division (UFD) is responsible for the care and preservation of the trees and landscaped areas in the public street right-of-way. The greenscape included in these areas comprises a significant portion of the City of Los Angeles' greater urban forest.

UFD's mission is to manage the portion of the urban forest that is growing along the City's public right-of-way using established sustainable urban forestry principles. Included in our mission is achieving the goals of maximizing the benefits gained from the urban forest while resolving conflicts between street trees and other vital infrastructure, encouraging community and private partnership involvement in urban forestry issues, minimizing maintenance costs, and ensuring the preservation of a healthy and safe street tree population.

People are part of the urban forest and, arguably, the most important factor. To ensure the mission and goals of UFD are met requires the active participation of the City's residents. I invite you to explore our website and hope that it fulfills your needs.

GEORGE GONAZLEZ, Chief Forester

Urban Forestry Division

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OR ONLINE @ <http://bss.lacity.org/Administration/service.htm>



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## Street Tree Policies

**WHEREAS** , *Street Trees are a significant and highly visual portion of the urban forest, a vital infrastructure system essential to the quality of life in the urban environment of the City of Los Angeles; and*

**WHEREAS** , *the Department of Public Works, Bureau of Street Services, Urban Forestry Division has been the steward of the urban forest, since the 1932 Summer Olympic Games; and*

**WHEREAS** , *the urban forest in the City of Los Angeles has matured into one of the largest, most diverse in the world; and*

**WHEREAS** , *appropriate planning, planting and maintenance of Street Trees provide the residence of the City economic, social, environmental, ecological and aesthetic benefits; and*

**WHEREAS** , *appropriate planning, planting and maintenance of Street Trees contribute to the public health, welfare and safety; and*

**WHEREAS** , *properly maintained Street Trees provide social and psychological well-being and enhance property values, securing and encouraging public and private investment; and*

**WHEREAS** , *the benefits from the urban forest can best be realized when adequate and reasonable care is provided in a consistent and continuous manner; and*

**WHEREAS** , *planting, preserving and maintaining Street Trees is an essential component for improving the quality of life in the various communities of the City; and*

**WHEREAS** , *the City of Los Angeles must strive to resolve conflicts between Street Trees and other essential infrastructure, so as to preserve the net benefits conferred by that segment of the urban forest on the remaining City infrastructure; and*

**WHEREAS** , *the City of Los Angeles seeks to improve the physical, social, economic and aesthetic environment by optimizing the benefits derived from Street Trees; and*

**WHEREAS** , *the Department of Public Works, Bureau of Street Services, Urban Forestry Division, has been recognized as leaders in introducing modern arboricultural practices to the care of Street*

*Trees and in establishing sustainable urban forestry policies; and*

**WHEREAS** , the Community Forest Advisory Committee was mandated by City Council on June 30, 1993 to make policy recommendations concerning the entire Los Angeles City Urban Forest and specifically about tree selection, tree planting, and tree care to the Board of Public Works; and

**WHEREAS** , the Community Forest Advisory Committee was established to facilitate constructive interaction between community members and all city agencies involved in tree maintenance, to analyze urban forestry programs and to foster community support in the enhancement and preservation of a high quality urban forest; and

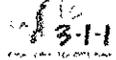
**WHEREAS** , a uniform policy is necessary to support community and City efforts by defining the importance of Street Trees and the commitment of the City of Los Angeles to the maintenance and enhancement of Street Trees;

**NOW, THEREFORE, BE IT RESOLVED that the City Council adopts the following Street Tree Policies:**

- Street Trees are recognized as an essential part of the City of Los Angeles urban forest infrastructure, an infrastructure system identified in the City's General Plan Framework, and as such will receive equal consideration with other City infrastructure systems.
- The benefits derived from Street Trees will be optimized by establishing urban forest programs that ensure that the collective population of Street Trees and their management:
- Achieve an optimum degree of canopy cover in order to shade City streets and thereby help mitigate the urban heat island effect, and maximize the benefits from the urban forest ecosystem.
- Provide mixed age tree population, adequate species diversity and an appropriate mix of tree types (evergreen vs. deciduous), in order to provide a diverse forest ecosystem more able to adapt to changing environmental pressures such as disease, pest infestation, etc.
- Provide varied forms, textures, structure, flowering characteristics and other aesthetic benefits to enhance the types of street environments found in the City.
- Contribute to and preserve the integrity of the native remnant forest both within and adjacent to the public right-of-way.
- Encourage and support community design and plantings of additional Street Trees through a one-stop permitting process and provisions for both short-term and long-term maintenance.
- Ensure the survival of newly planted trees.
- Increase the dedicated airspace and dedicated root volume available for Street Tree planting through review and revision of design standards, increased use of permeable materials, and other such measures that would provide better accommodation of Street Trees.
- Increase the awareness of the benefits of Street Trees through a City-wide education effort.
- Recycle all green waste generated by the maintenance of Street Trees.
- Support the full utilization of a computerized Street Tree Inventory Management System to achieve the aforementioned goals.
- The Street Trees of Los Angeles will be properly maintained and enhanced through policies and programs that:
- Utilize consistent, approved state-of-the-art standards for planting, pruning, management and removal of trees along the public streets.
- Ensure that public agencies and private enterprises impacting Street Trees operate with common goals and objectives.
- Protect and provide for the necessary care of existing Street Trees.
- Develop a sustainable urban forest management program through a public private partnership.

**BE IT FURTHER RESOLVED** that the City Council directs City Departments to review their relevant documents and procedures with regards to these Street Tree Policies, to incorporate these Policies into planning, operations, and permitting decisions, and to arrange presentations of the Department's revisions affecting Street Trees to the Board of Public Works within six months.

*As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability and, upon request, will provide reasonable accommodation to ensure equal access to its programs, services and activities*

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TDD: (213) 473-6600  
FAX: (213) 473-4150

July 1, 2009

To Prospective 50/50 Sidewalk Repair Program Participant:

It is with deep regret that we are unable to offer participation in the 50/50 Sidewalk Reconstruction Program for this fiscal year. Faced with extraordinary budget deficits, the City of Los Angeles has elected not to fund the 50/50 Sidewalk Reconstruction Program. It is our hope that circumstances will improve to the point where the 50/50 Sidewalk Reconstruction Program will once again be an available option to residential property owners considering the repair of the adjacent concrete sidewalk.

In the meantime, our 311 Call Center will continue to take your requests for interim repairs. Property owners can, of course, utilize the option of private contractors at their own expense and with the applicable permits to undertake the permanent repairs of the concrete sidewalk abutting their properties.

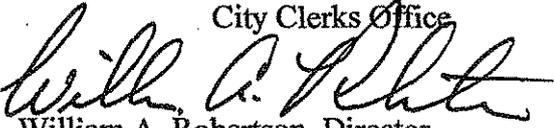
Very truly yours,

WILLIAM A. ROBERTSON, Director  
Bureau of Street Services

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

**DATE:** February 14, 2007

**TO:** Bill Rosendahl, Chairperson  
Public Works Committee  
Attention: Adam Lid, Legislative Assistant  
City Clerks Office

**FROM:**   
William A. Robertson, Director  
Bureau of Street Services

**SUBJECT: STREET TREE POLICIES**

**BACKGROUND**

This correspondence is in response to a Council Motion presented by Councilmember Jan Perry and seconded by Councilmember Tom LaBonge on October 12<sup>th</sup>, 2006, (Council File # 06-2445) regarding the City's Street Tree Policies. Specifically, the Bureau of Street Services (BSS) was requested to prepare a report revising the City of Los Angeles' current Street Tree Policies in order to conform to the City's changing tree needs. The report deals primarily with those trees in the public right-of-way as well as trees growing on the grounds of City facilities.

**DISCUSSION**

The City of Los Angeles contains one of the largest urban forests in the world. City Departments manage nearly 700,000 street trees, 850,000 City park trees, and approximately 40,000 trees on City-owned facilities. Additionally, there are over ten million trees planted on privately held property. This number was recently quantified by the United States Forest Service Canopy Cover Analysis report. This brings the City's urban forest total to nearly twelve million trees, which, to the best of the Bureau's knowledge, makes the City of Los Angeles' urban forest one of the largest in the world.

The management of this vast and valuable resource is spread between several City agencies and the public. The Bureau's Urban Forestry Division (UFD) manages the City's street trees, median islands, private property vegetation that may impact the public right-of-way, and affords protection to the City's native trees through the Los Angeles Municipal Code (LAMC). The Department of Recreation and Parks (DRP) manages the trees located in City Parks and at City facilities. At this time, DRP is not funded to maintain the trees on public facilities; therefore, the trees on City facilities are only serviced on an emergency basis. There are also a small, but significant, number of trees on Los Angeles World Airport (LAWA) property and the Port of Los Angeles (POLA) property that each department respectively manages and maintains. The Department of Water and Power (DWP) is responsible for maintaining approximately 400,000 trees in proximity to electrical distribution lines in the public right-of-way and on private property. The remainder of the City's urban forest is managed and maintained by the owner of the property on which the trees stand.

In 1993, the City Council adopted the "Street Tree Policies." The Policies focus on the Urban Forest as a vital infrastructure element, which produces ecosystem services for the residents of the City. The Policies also address goals and strategies for maximizing the quality of life and environmental benefits provided by trees. Essential to maximizing these benefits is managing urban trees using established Best Management Practices (BMP) and sustainable urban forestry principles. For the most part, these strategies have been implemented or are of the type that are continuous and always on-going.

While many Policy goals have been met, one goal that has not been reached is to provide consistent and appropriate level of care to the street tree population in order to maximize the ecosystem services that trees can provide the City's citizens.

Professional standards and urban forestry BMP recommend maintaining an annual pruning frequency of five years. In the past 25 years, this frequency has only been met twice but has never been sustained. From 1990 to the present, the City's street tree pruning frequency has fluctuated dramatically from a five and a half-year cycle to a 32-year cycle, being 11 years the average cycle.

The inability to maintain an adequate pruning cycle has significantly impacted the long term health and safety of the urban forest and reduced city staff's ability to manage the urban forest in a proactive manner. This inability increases:

- service request backlogs,
- citizens' dissatisfaction with city services -- in particular as they relate to the urban forest,
- average per-tree maintenance cost, and
- number of emergencies due to limb and tree failure, which consequently result in a higher volume of claims filed against the City.

Ultimately, the deterioration of the urban forest health and the loss of the ecosystem services negatively impact the quality of life of the City residents.

The key to achieving a BMP pruning cycle is adequate funding. However, current City of Los Angeles urban forest resource funding levels trail even mid-level industry standards. A study, commissioned by the City in 1999 and performed by Dr. James Clark of HortScience Inc. found the City spent \$18 per tree while the mid-range across the country was \$25 per tree. At that time, the Division's budget was \$12.3 million dollars. The budget for the current 2006-2007 Fiscal year is \$12.2 million or \$17 per tree. This being considered, the 1999 urban forestry budgeting which was inadequate at that time has been further reduced even while not accounting for inflation. The City of Los Angeles, the nation's second largest City with one of the largest urban forest, is often viewed as a professional urban forest leader, yet it is far from exemplary when it comes to funding the care and management of our "living Infrastructure."

Achieving and maintaining a five-year pruning frequency would have a significant impact on maximizing ecosystem services, improving the quality of life of our residents, and accomplishing the major component of the Mayor's goal of making Los Angeles the greenest, cleanest, healthiest large city in the nation.

The Council Motion outlined four items of concern are:

1. Deferred maintenance
2. Increase in LAPD requests for service in an effort to fight crime.
3. Maintenance of trees on municipal facilities.
4. Long term maintenance needs of trees planted under the Million Trees initiative

**Item 1 - Deferred Maintenance**

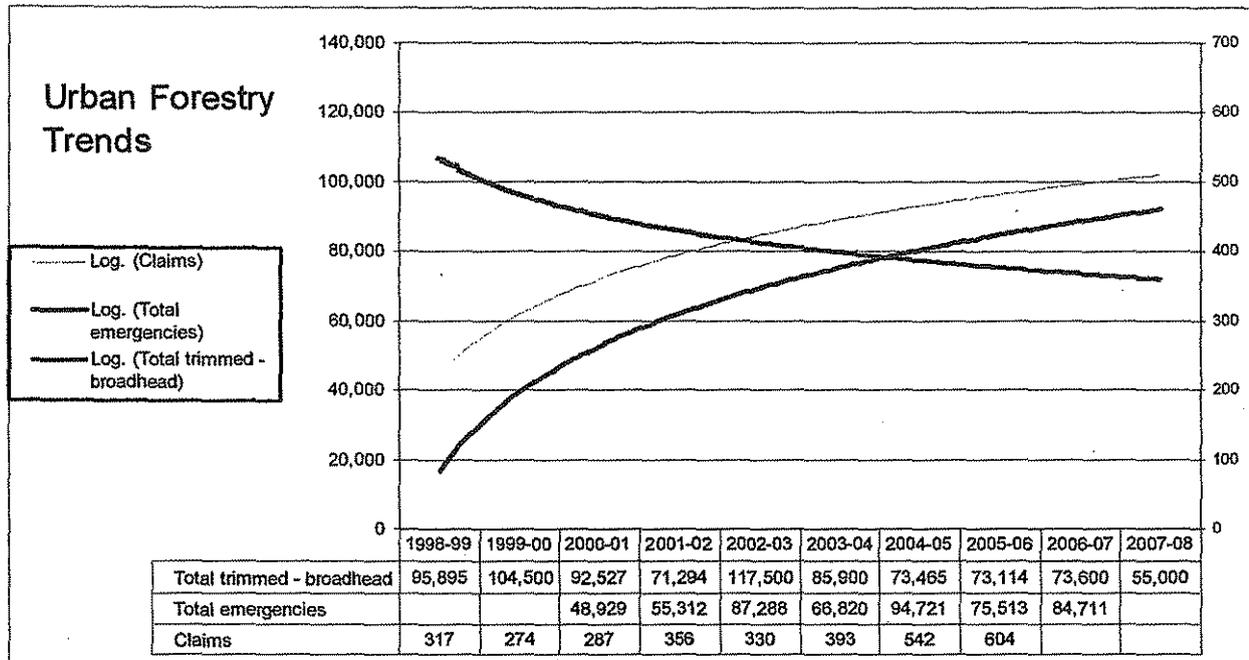
Impact due to street tree deferred maintenance manifests in different ways. For example, deferred maintenance results in increased limb and tree failures. During the Summer of 2006, the street tree population suffered an unprecedented occurrence of "sudden or summer limb drop syndrome." Although the specific mechanism for failure has not been determined, high temperature and lack of maintenance are contributing factors to this syndrome. During the months of June through September, the syndrome dramatically increased the number of BSS street tree related emergencies. Emergency calls in June and September showed an increase of more than 50 percent over last year's numbers, and in July and August the calls nearly doubled those from the previous year. Compared to historic records, there has been a 60 percent increase this year than in the previous five years. This increase results in a significant shifting of resources that ultimately affect the delivery of other programmed services or even worse, the Bureau is required to use overtime to expeditiously clear the limb drops.

The syndrome was particularly pronounced on three or four tree species. American Sweetgum (*Liquidambar styraciflua*) comprised as much as 60 percent of the impacted trees. Carob (*Ceratonia siliqua*), Chinese Elm (*Ulmus parvifolia*), and Modesto Ash (*Fraxinus velutina*) were also greatly impacted. Although particularly pronounced in 2006, Summer Limb Drop is not an isolated event. Every year UFD anticipates sudden limb drop episodes, and as trees receive less routine maintenance, summer limb drop events increase.

Deferred maintenance is also manifested when Santa Ana winds and winter rainstorms occur. During these events, limb and tree failures are common place and are caused by several factors including wind speed, excessive soil moisture, and tree canopy resistance to the wind. When trees are not pruned regularly, limb and tree failures increase due to the "sail effect" caused by the un-pruned, dense tree canopy and to the physical weight of the overgrown tree. This in turn increases the amount of time diverted to emergency response, causes overtime usage, and raises the potential for property damage and bodily injury to citizens as well as City staff.

Additionally, deferred pruning results in increased liability claims to the City. There has been a 120 percent increase in claims from Fiscal Year 1999-2000 to Fiscal Year 2006-2007 (see chart A). The increase in claims and resultant settlements will also increase the financial responsibility of the City.

CHART A



Street trees pruned on an insufficient cycle places the City at increased risk. The probability of a street tree failure causing a large financial property settlement or, even worse, inflicting bodily harm or death is increased. UFD is confident that more frequent pruning will alleviate a substantial amount of risk exposure.

Trees also provide a myriad of environmental services. Two of critical importance to the City is reduction of storm water run-off and removal of air pollutants. The loss of limbs and entire trees reduces urban forest potential for delivering ecosystem services. This deferred maintenance cost is becoming more important as the Environmental Protection Agency now considers trees to be a greenhouse gas mitigation source. Furthermore, municipalities across the nation are using trees as a mitigation tool to reduce storm water run off by intercepting rain water that would otherwise enter our rivers, bays, and harbors along with street level pollutants. Research conducted by the U.S. Forest Service indicates that for every \$1 invested in tree care, municipalities receive \$2.80 in environmental services. Trees allowed to deteriorate due to deferred maintenance produce less environmental services.

Lastly, the image of the City is tarnished when its residents see a neglected and failing street tree population. The inability to provide a timely tree pruning cycle also places the Bureau and City in a position that exacerbates resident's perception that they do not receive their fair share of City services. These intangible factors are damaging to the Division, Bureau, City and, more importantly, the resident's quality of life.

The effects of deferring maintenance to the urban forest may be negligible on the short term. Prolonged neglect has increasingly serious consequences that compound exponentially from year to year.

Deferring urban forestry maintenance, particularly street tree care, results in: increased limb and tree failure during summer heat spells, fall winds, and winter rainstorms. Furthermore, increased emergency response time, increased use of overtime funding, increased street tree related tort claims, increased liability risk exposure, and a decrease in the ecosystem services provided by the City's street trees.

Division records, service requests, and claims have indicated a correlation between pruning cycles and all of the above concerns. Therefore, in the best interest of the City, the Division recommends increasing the street tree maintenance funding levels by reducing the pruning cycle to five years. This would save money, time, property, and potentially lives.

**Item 2 – LAPD requests for service in an effort to fight crime**

As part of the Safer Neighborhoods Program, the Los Angeles Police Department (LAPD) has installed remote video cameras in high crime areas of the City. LAPD opines this significantly reduces crime by providing recorded evidence of criminal activity. Many of these cameras have been installed near street trees, often creating line-of-sight problems. As a result, in the last few years, the Bureau has increasingly received requests from LAPD to prune trees.

In addition, LAPD asserts that there is a correlation between street light illumination and criminal activity; this correlation is commonly known as “the cover of darkness factor.”

Street lights and street trees are both an integral part of the City's infrastructure system. There are approximately 250,000 street lights and a little less than 700,000 street trees along the City's public right of way and consequently, it is understandable that there are locations where the City's street lights and street trees are in conflict, minimizing the illumination of said street lights. For many years the UFD has collaborated with the Bureau of Street Lighting to provide additional pruning of trees adjacent to street lights.

To minimize this conflict, the Bureau of Street Lighting has historically provided UFD additional funding for tree pruning contracts in street light Assessment Districts. The funding amount has varied in past fiscal years from no funding to 2.7 million dollars. However, as indicated in the motion, the Bureau of Street Lighting has discussed the potential of eliminating this funding source altogether. This would severely affect the Bureau's ability to properly maintain trees and assist LAPD's crime fighting efforts.

While these funds are essential in minimizing tree/street light conflicts, the funding may only be used in street lighting assessment districts, which restricts the UFD from utilizing these funds outside of those areas. Therefore none of the Department of Water and Power “utilitarian” street lights may be cleared using Street Lighting funds and no funds are provided by DWP to clear these lights. Additionally, the monies may not be used to prune any Palm tree species.

A regular pruning cycle of five years would significantly assist UFD in meeting many of LAPD's tree pruning needs and reduce conflict between street lights and street trees. At locations where street lights exist within the street tree canopy, the urban forest BMP requires removal of the conflicting tree and replanting at a site sufficiently distant from the street light so it will not impact its illumination, replanting a smaller canopy tree, or leaving the site vacant.

By providing funding for tree pruning on a more consistent basis, crime as well as conflicts between street lights and surveillance cameras will potentially be reduced. At locations where regular maintenance cannot allow for street light/camera and street tree coexistence, UFD suggests tree removal in the interest of public safety.

**Item 3 – Municipal Building Tree Maintenance**

Historically, the Department of Recreation and Parks (DRP) provides inspection and tree care services for trees growing on municipal building sites even though no funding is provided for this service. Beginning in Fiscal Year 2002-2003, DRP reduced this service citing a lack of specific funding for these tasks. Since that time, with a few exceptions, very little tree care maintenance has occurred at municipal buildings. In an effort to stem the effects of not pruning trees at municipal sites, DRP requires facility managers supply specific work requests, at which time, DRP would provide a cost estimate to the requesting department. Upon acceptance of the cost estimate and transfer of funds by the requesting department, DRP then performs the work.

Most of these facilities cite a lack of their own funds and now often request that UFD prune the facility trees. UFD is not funded to provide these services. UFD performs emergency tree services at Police Stations, Fire stations, and Libraries as a preventative measure until a long term and sustainable solution is found. When UFD provides these services, it reduces its ability to provide the services that are mandated and required of the Division.

UFD recommends the most effective method to ensure that municipal facility trees are safe and properly maintained is to provide funding for an appropriate City facility tree pruning cycle. Unlike street trees, trees on municipal sites may not require as frequent a pruning cycle. To determine the appropriate cycle will first require an assessment and inventory made of City facility trees. The inventory will assist City urban forest managers to prioritize tasks and decide how to best manage and care for these trees. These trees could also be included as infrastructure in the City's Geographic Information System (GIS).

The Bureau opines the UFD is the most appropriate agency to oversee the management of municipal facility trees. Nevertheless, without an appropriate funding structure there is no City agency that may take on this additional workload at this time.

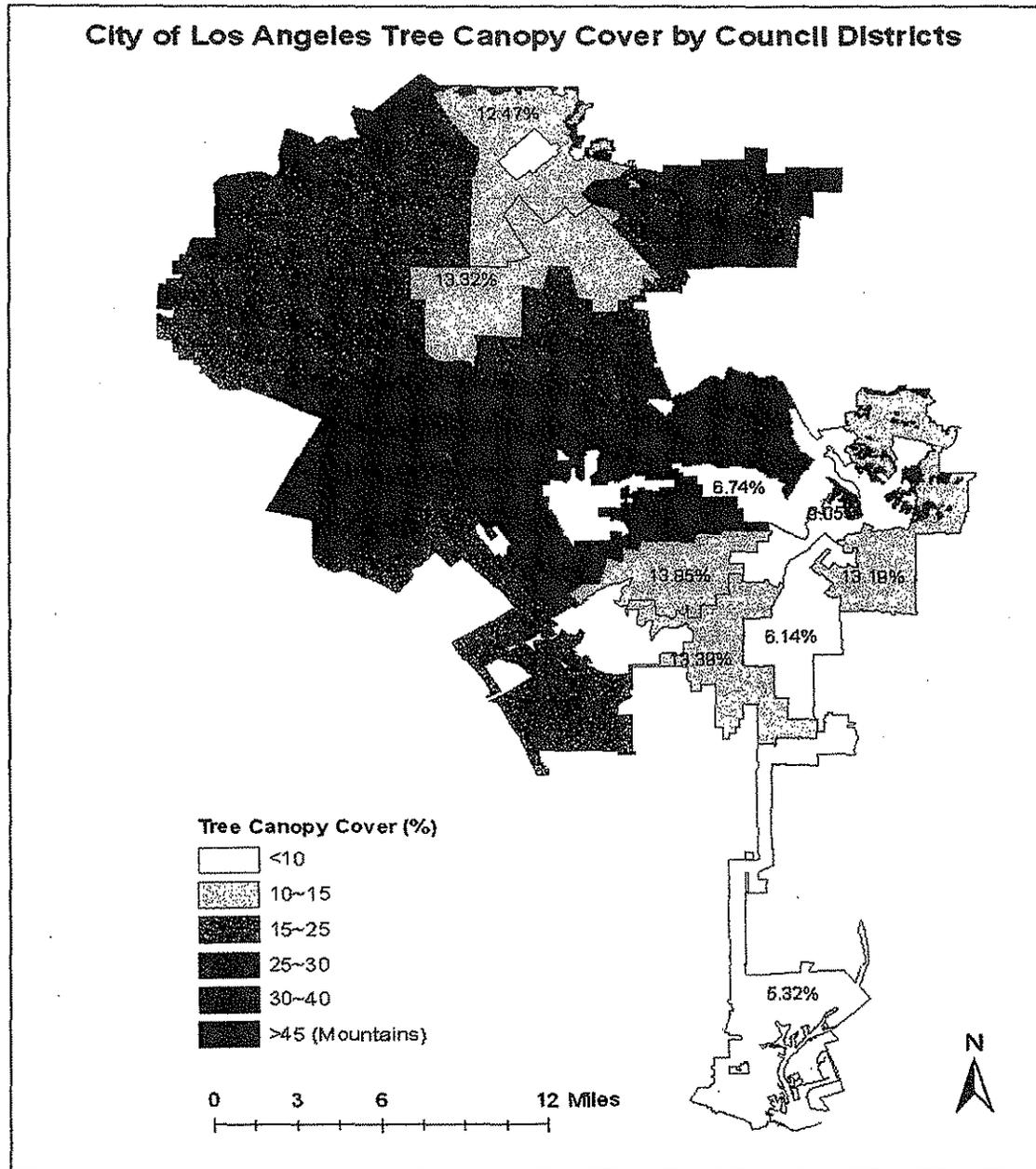
**Item 4 – Million Tree Initiative Trees and Indian Laurel Fig (*Ficus microcarpa*) Trees**

**Million Trees LA (MTLA)**

While the City has one of the largest urban forest in the nation, there is still substantial room to grow additional trees on both public and private property. The recent Canopy Cover Analysis conducted by the U.S. Forest Service concluded that the total tree canopy cover for Los Angeles is 18 percent and significantly below the national average of 27 percent. In some council districts, the canopy cover are as low as 5 percent, which is close to a desert-like environment (see map).

In an effort to increase urban forest canopy, clean the City's air, reduce storm water run-off, increase property values, and make Los Angeles greener, cleaner, and healthier, the Mayor has launched the Million Trees LA project (MTLA). MTLA is designed as a civic engagement project that creates partnerships between the City, community groups, non-profits, businesses, and individual residents working together to plant and provide long-term stewardship of trees on both public and private land.

Approximately, one third of the trees will be planted on publicly owned or controlled property while the remainder will be planted on private property.



UFD estimates there are approximately 110,000 potential street tree planting locations within the City. Due to conflict with other infrastructure, poor soil conditions, and property owners declining tree planting, approximately twenty percent of these sites will not be planted, leaving 88,000 potential planting sites. Based upon the current street tree population, 700,000 trees, the City's street tree population will be "planted out" at 788,000 trees. This amounts to a thirteen percent increase in the street tree population. An estimated 40,000 sites are immediately available for planting. The remaining potential tree sites are in commercial areas with full-width sidewalks that will require sidewalk cutting.

While this is a significant increase to the City's street tree population, the initial impact on the overall pruning cycle would not be substantial. However, as the trees mature, funding for the increased street tree population will need to commensurately rise to ensure that the trees remain safe, healthy and thriving.

The majority of street tree plantings will be performed by MTLA project partners including UFD, Tree People, Los Angeles Conservation Corp (LACC), Hollywood/LA Beautification Team (HBT), North East Trees (NET), Korean Youth Community Center (KYCC). Funding will be provided through state and federal grants, Department of Water and Power "Trees for a Green LA" program, and the MTLA Foundation. Under the MTLA project, the Division will be required to facilitate, provide oversight, inventory and manage the work performed by the non-profits and citizen groups planting in the Public Right of Way.

#### Indian Laurel Fig

The motion specifically addresses the problems associated with the Indian Laurel Fig (*Ficus microcarpa nitida*) tree. Indian Laurel Fig trees are evergreen, fast growing, hardy, drought resistant, and provide exceptional ecosystem services. This tree species is extremely adaptable and has thrived in hostile street tree environments. Since this tree is a tremendous urban performer, it is essential the City make their continued presence in the urban forest a reality.

The fast growing nature of Indian Laurel Fig has contributed to conflicts with adjacent infrastructure including street lights, sidewalks, buildings, and signage. Building and signage conflict could be substantially reduced by implementing a five year pruning cycle. An appropriate pruning cycle will also reduce crime and street light conflicts

Although, adequate root space has been a continued problem with Indian Laurel Figs, these trees are very adaptable to root pruning and most often can remain while sidewalk repairs are completed. The Bureau has made significant progress in repairing the City's sidewalks through the Sidewalk Repair Program and the 50/50 Voluntary Partnership program.

The City rarely plants Indian Laurel Fig in new plantings except in large parkways where it is less likely to create hardscape damage. Nevertheless, due to the myriad of ecosystem services provided, UFD retains mature Indian Laurel Fig trees whenever possible.

### RECOMMENDATIONS

#### **RECOMMENDATION #1**

To address years of deferred maintenance of city trees, the City's urban forest managers recommend achieving and maintaining an overall five-year street tree pruning cycle. This action will improve the health and safety of the urban forest, increase ecosystem services, and improve customer satisfaction with City services. Ultimately, the increase in annual pruning funding will ultimately reduce the overall cost of the urban forest program by minimizing reactive pruning, emergency response calls, and claims

\$1.42 Million to the General fund

**SUMMARY**

The urban forest is an integral part of the City of Los Angeles infrastructure system. It is the only element that actually gains value over time. The street trees and municipal grounds trees are a significant portion of the City's urban forest. The health, safety, and proper management of this resource are the City's responsibilities. Ensuring proper management will enable this valuable resource to maximize the ecosystem services it provides now and will provide a living gift to our future and for generations to come. Adoption of these recommendations will assist in making the City, cleaner, greener, healthier and safer place for all our residents.

If you have any questions, please contact me at (213) 847-3333 or George Gonzalez, Chief Forester, Urban Forestry Division, at (213) 847-3077

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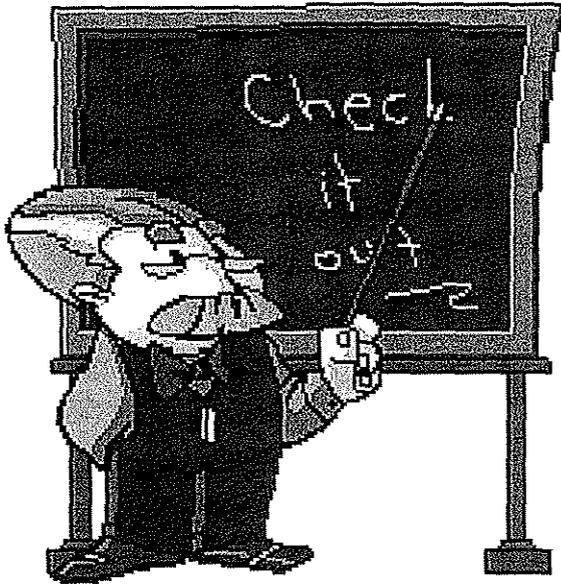
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# Department of Public Works

## Bureau of Street Services

Cynthia M. Ruiz  
President  
Department of Public Works

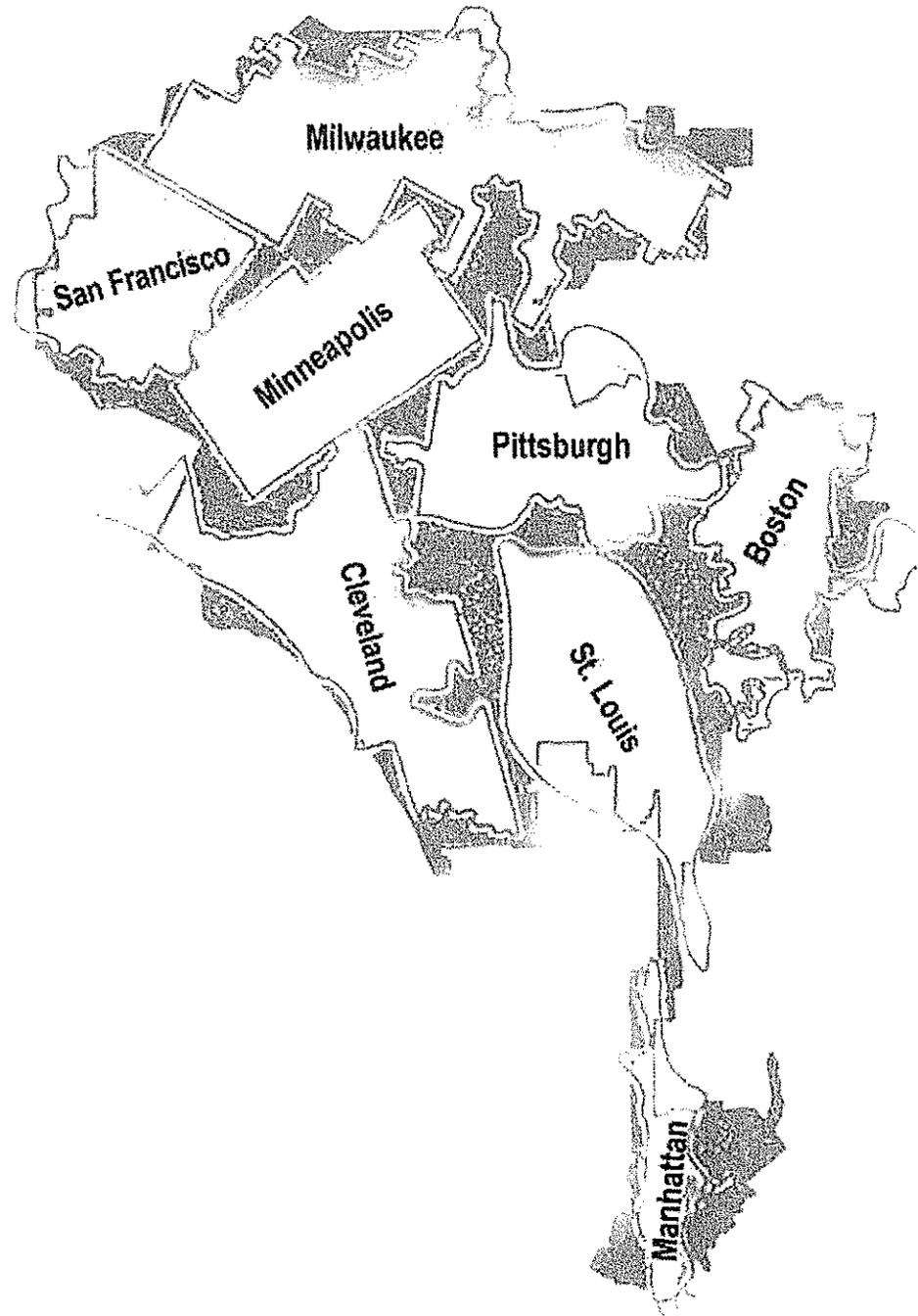


# PROFESSOR POTHOLE PRESENTS

## Point of Sale Sidewalk Repair Program

William A. Robertson  
Director  
Bureau of Street Services

# HOW BIG IS LOS ANGELES?



<u>CITY</u>	<u>SQUARE MILES</u>
City of Los Angeles	468.85
Boston, MA	49
Cleveland, OH	199.4
Manhattan, NY	31
Milwaukee, WI	95
Minneapolis, MN	58.7
Pittsburgh, PA	55.5
St. Louis, MO	160.3
San Francisco, CA	46.7

# SIDEWALK REPAIR PROGRAM

# Historical Look At The City's Sidewalk Policy

The State of California Improvement Act of 1911 provides cities the authority to require property owners to effect repairs to sidewalks abutting their property (California Streets and Highways Code). Should the property owner fail to effect such repairs, city forces are authorized to make the repairs and the property owner is assessed for the cost. However the Los Angeles Municipal Code (Section 62.104, Ordinance No. 146,040 effective July 3, 1974) exempts homeowners from the responsibility for sidewalk repairs caused by tree root growth and places responsibility for these repairs with the City. The Bureau encourages property owners to effect voluntary repairs through the issuance of a no-fee "Class A" permit.

# Historical

- Between 1978 to 2000, no full scale permanent sidewalk repair program existed in the City. In the interest of public safety, the Bureau made repairs with asphalt at no direct cost to the property owner.
- For the first time in 25 years, a budget was approved in the 2000-2001 budget for approximately \$9 million to permanently repair 46 miles of the most damaged sidewalks.
- In 2001-2002, the Sidewalk Repair Program was again funded and increased to repair an additional 98 miles of sidewalks
- Fiscal Year 2002-2003, the Mayor and City Council increased the program by 20 miles to a total of 118 miles.

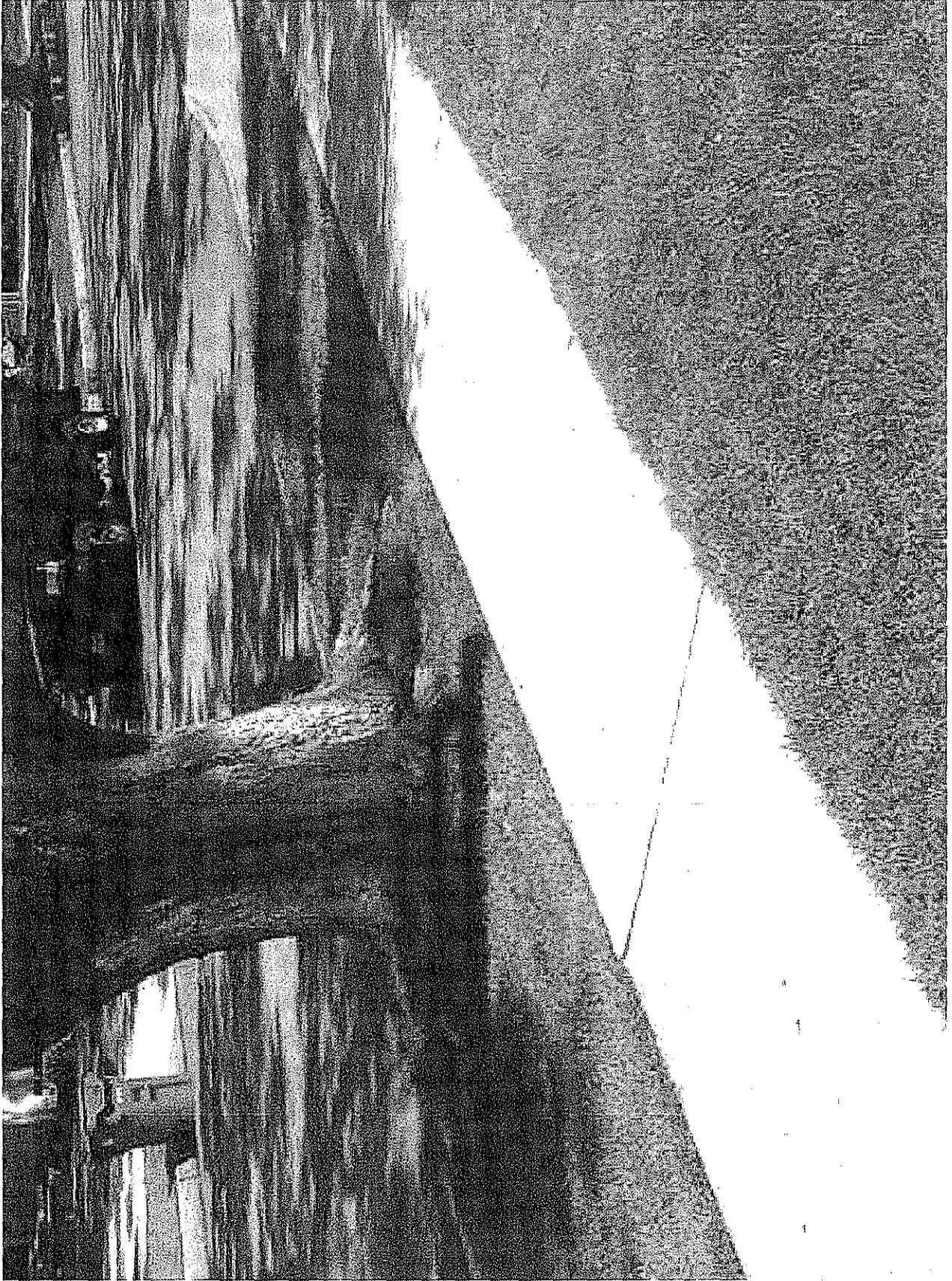


# Criteria For Sidewalk Repair

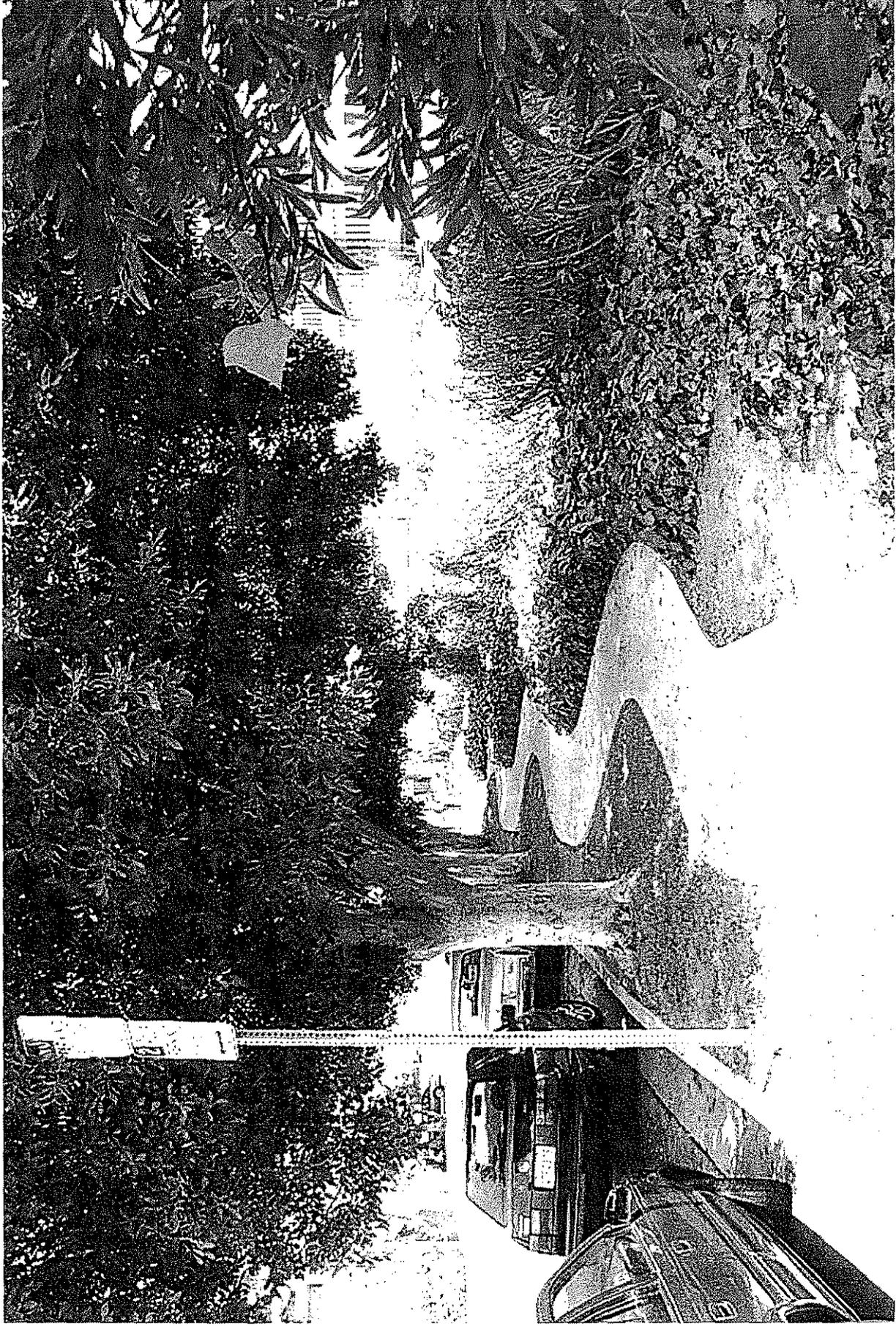
- Areas where slip, trip and fall accidents have occurred.
- Where tree roots have raised the sidewalks within American with Disabilities Act “transition areas”, as determined by the Department of Disability.
- Where paths of travel issues exist in conjunction with access ramp construction.
- In low and moderate income census tract areas.

# Sidewalk Repair Options

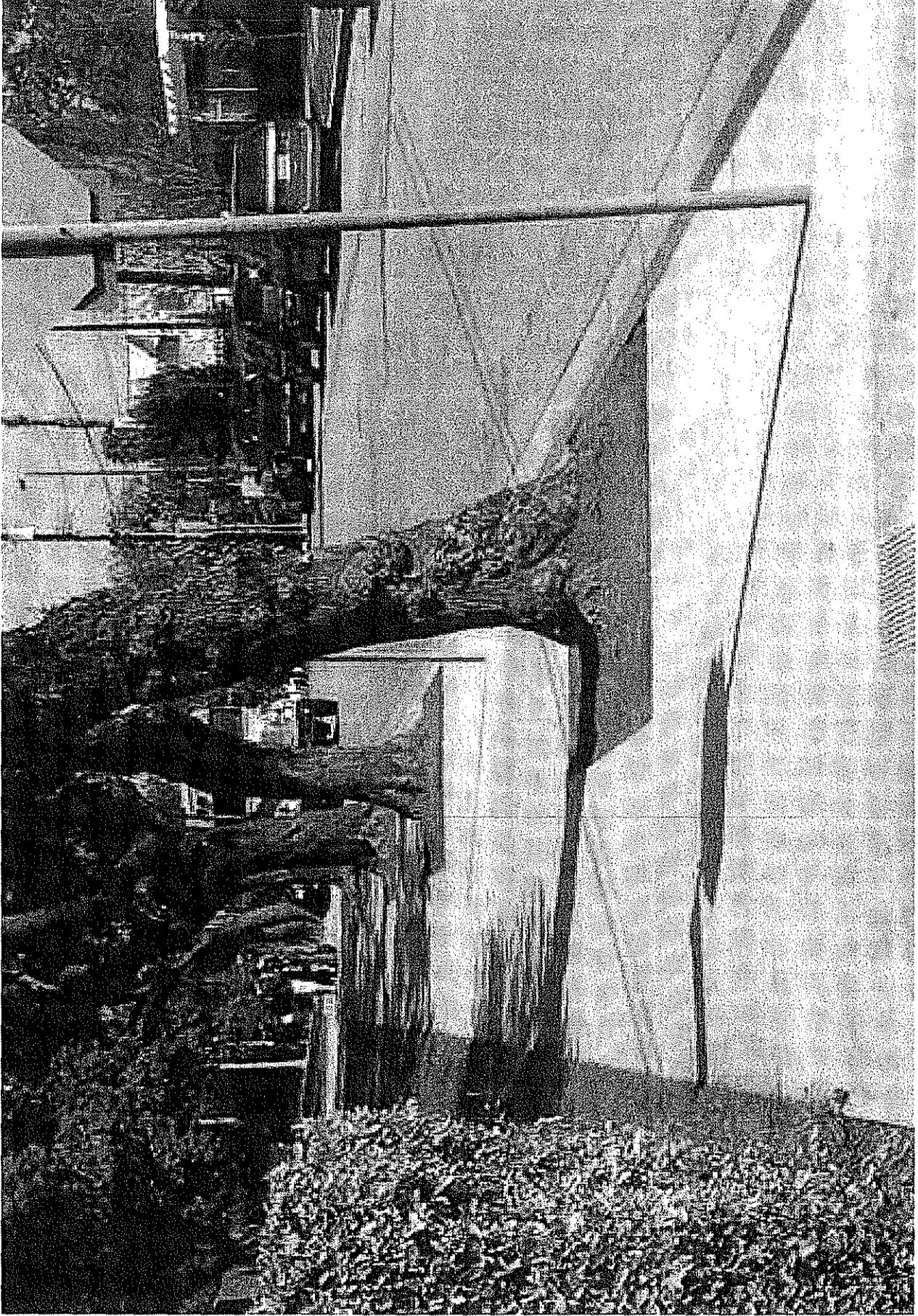
- Grind Sidewalks
- Meander Sidewalks
- Enlarged Tree Well
- Reduce Sidewalk Width
- Rubberized Pavers
- Pour-in-Place Rubberized Sidewalk
- Sidewalk Ramping



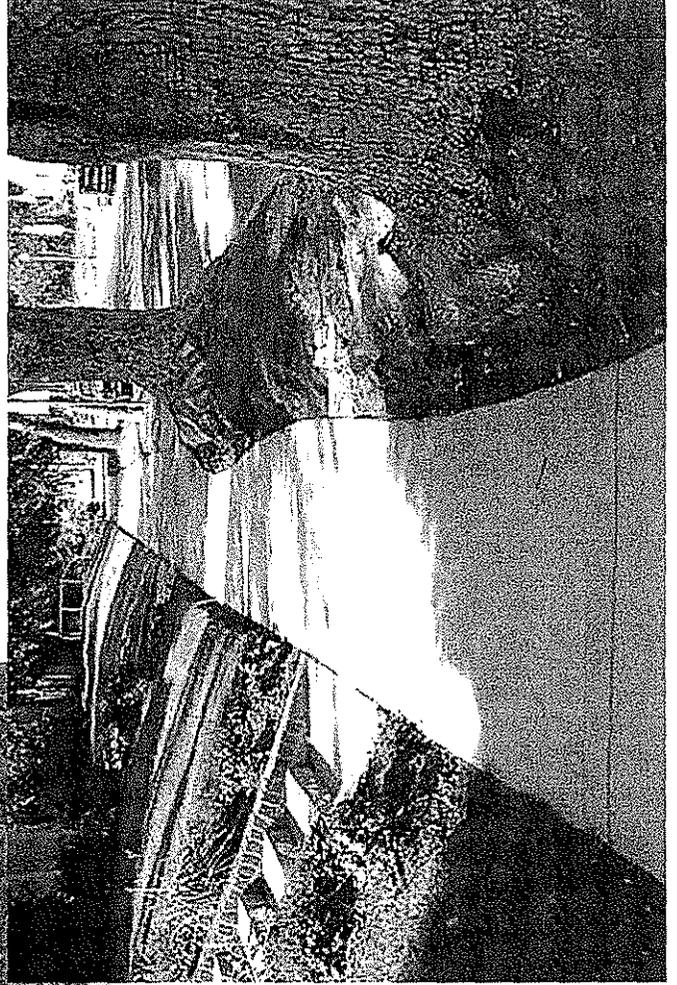
Sidewalk Grinding



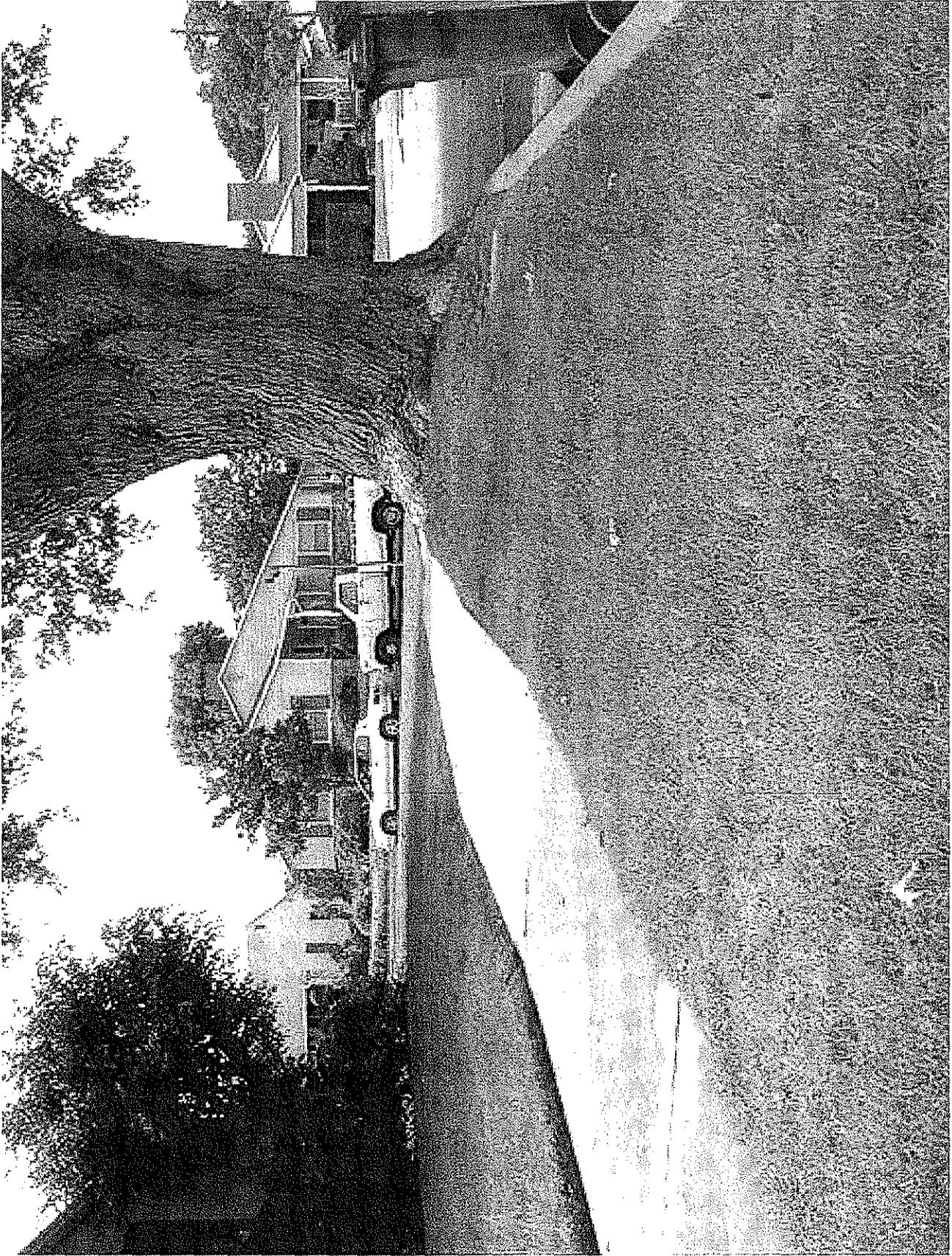
Meandering Sidewalk



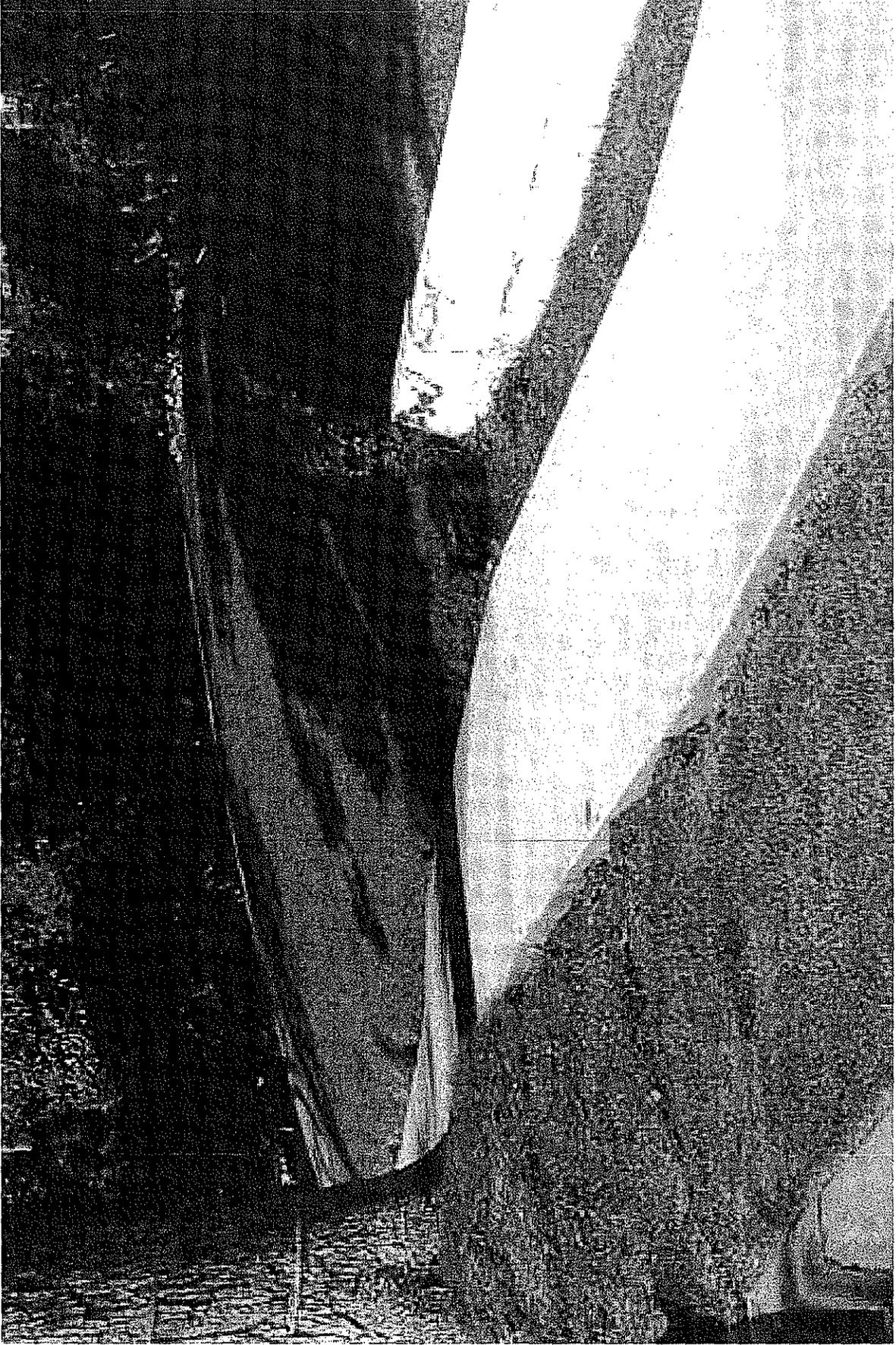
Enlarged Tree Well



Reduced Sidewalk

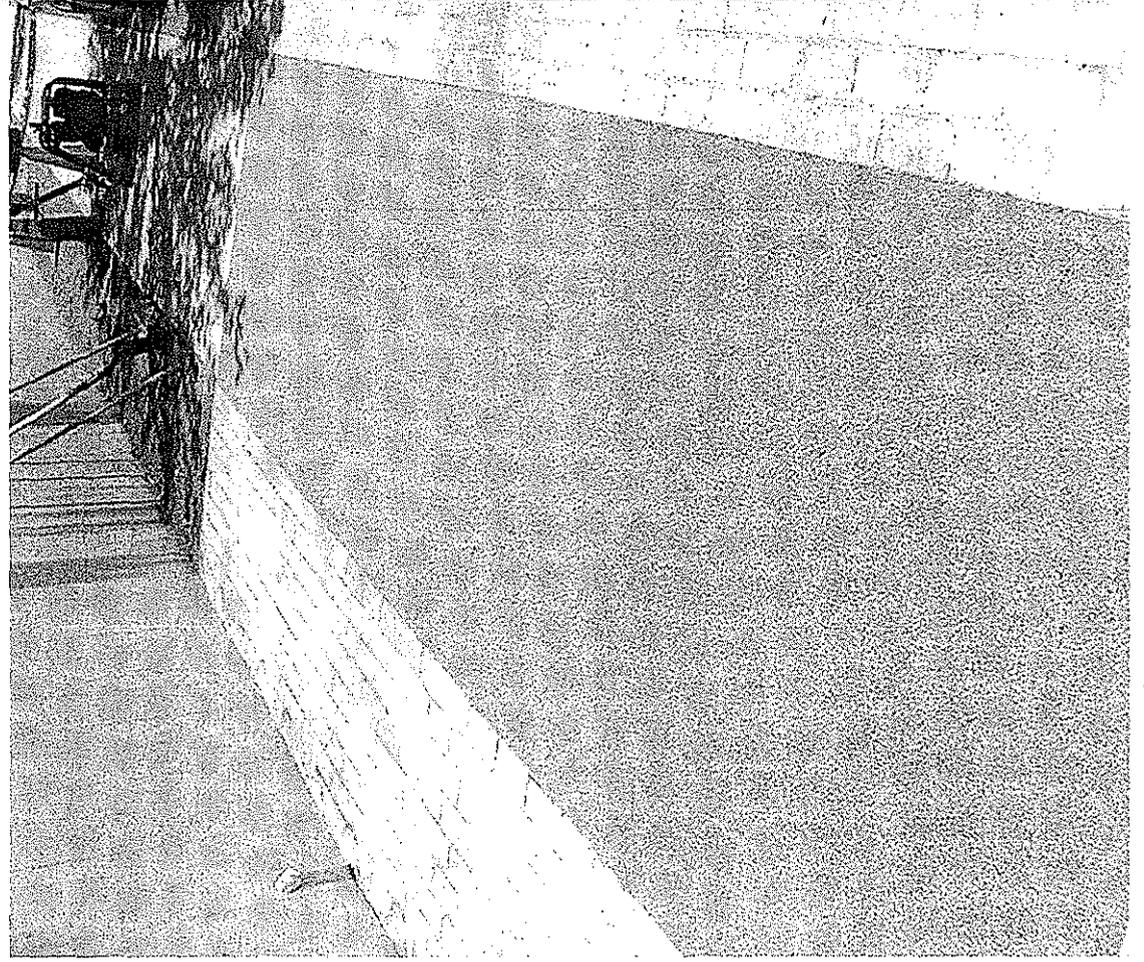


Ramped Sidewalk



Ramped Sidewalk

Poured-in-Place  
Rubberized Sidewalk



Rubberized Pavers

WHY ARE WE HERE?

# Sub-Committees

- Program Structure
- Legal Issues/Ordinance Change
- Workforce Development/Training
- Community/Business Outreach

# Program Structure

- Residential Program/Commercial Program
- Enforcement – Public/Private
- Inside/Outside Escrow
- Issuing Safe Sidewalk Certificates
- Inspection Costs and Procedures
- Review current policies for existing programs

# Legal Issues/Ordinance Change

- Drafting of New Ordinance
- Rescinding “City Responsible” Amendment
- Inclusion of Permitting over \$5,000
- Exemptions – Condos, Transfers between family members, etc.
- Issuing Safe Sidewalk Certificate
- Residential Property only?
- Commercial Property issues
- Review of current requirements for gas shut-off, etc.

# Workforce Development/Training

- Eligibility/Target Group/Qualifications
- Start-up Funding Sources
- Training Structure (Classifications)
- Length of Training/Classification
- Payscale

# Community/Business Outreach

- Input from Neighborhood Councils
- Presentation of final program

# Timeline

- 120 days submit a draft report to Council Committees
- 60 days from the draft report, submit the final report to full Council.

# WHAT DO WE DO NEXT?

- Establish sub-committee meeting schedules
- Submit monthly progress reports to the Bureau of Street Services

# DISCUSSION

Pasadena, California, Code of Ordinances >> Title 8 - HEALTH AND SAFETY\* >> Chapter 8.52 - CITY TREES AND TREE PROTECTION ORDINANCE >>

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## Chapter 8.52 - CITY TREES AND TREE PROTECTION ORDINANCE

### Sections:

- 8.52.010 - Short title.
- 8.52.015 - Purposes of ordinance.
- 8.52.020 - Definitions.
- 8.52.025 - Applicability.
- 8.52.030 - City manager responsibilities.
- 8.52.032 - Tree protection guidelines.
- 8.52.040 - Consultation policy.
- 8.52.050 - Design commission.
- 8.52.060 - Protection policy.
- 8.52.065 - Designation of landmark trees.
- 8.52.066 - Designation of native and specimen trees.
- 8.52.070 - Private property tree removal and landmark tree pruning permits—Applications.
- 8.52.075 - Private property tree removal and landmark tree pruning permits—Issuance.
- 8.52.076 - Work on public trees.
- 8.52.077 - Tree relocation.
- 8.52.080 - Exemptions—No permit required for certain pruning and removal.
- 8.52.085 - Prohibited acts.
- 8.52.090 - Sidewalk and street repair.
- 8.52.100 - Hazards—Private property.
- 8.52.110 - Protection of trees during improvements.
- 8.52.120 - Attachments to street trees.
- 8.52.140 - Interference.
- 8.52.150 - Notice of public tree removal.
- 8.52.155 - Prosecution of violations.
- 8.52.160 - Penalties and administrative proceedings.
- 8.52.165 - Remedies not exclusive.

### **8.52.010 - Short title.**

This chapter shall be known as the "city trees and tree protection ordinance."

(Ord. 6896 § 2 (part), 2002)

### **8.52.015 - Purposes of ordinance.**

Pasadena is graced by the presence of thousands of mature trees that contribute long-term aesthetic, environmental, and economic benefits to the city. Aesthetically, trees offer dimensions in the form of color, shape, texture, scale and variety. Mature trees are often integral components of many historic sites and their presence contributes to the site's cultural and historic significance.

Environmental benefits derived by trees include the filtering of air pollutants; increasing atmospheric oxygen levels; stabilizing soils; reducing heat convection; decreasing wind speed; and reducing the negative effects of solar glare. The biological diversity of wildlife and plant communities is enhanced by the favorable conditions created by trees.

The economic benefits derived from trees include increased property values, and additional revenue generated by businesses, visitors and new residents attracted to the urban forest image of the city. Trees are a major capital asset to the city and like any valuable asset they require appropriate care and protection.

Therefore, it is the purpose of this ordinance to:

- A. Preserve and grow Pasadena's canopy cover by protecting landmark, native and specimen trees on specified areas of private property and expanding the protection of street trees and trees on public property.
- B. Safeguard the City's urban forest by providing for the regulation of the protection, planting, maintenance and removal of trees in the city.
- C. Protect the visual and aesthetic character of the city.
- D. Improve and enhance property values by conserving and adding to the distinctive and unique aesthetic character of the many areas of Pasadena.
- E. Improve the quality of life for residents, visitors and wildlife.
- F. Create favorable conditions for the protection of designated landmark, native and specimen trees, for the benefit of current and future residents of Pasadena.
- G. Maintain and enhance the general health, safety and welfare of the city and its residents by assisting in counteracting air pollution and in minimizing soil erosion and other related environmental damage.
- H. Protect and maintain healthy trees in the land use planning processes as set forth herein.
- I. Establish procedures and practices for fulfilling the purposes of this city tree and tree protection ordinance.

(Ord. 6896 § 2 (part), 2002)

### 8.52.020 - Definitions.

For the purposes of this chapter, the following terms are defined as follows:

- A. "City" shall mean the city of Pasadena.
- B. "City manager" means the city manager and such representative as he or she may designate in writing.
- C. "Diameter-at-breast-height (DBH)" means the diameter of the tree 4½ feet above ground on the uphill side of the tree. If a tree forks below breast height, it is considered "a multi-trunk." A measuring tape can be used to measure tree trunk circumference and then the circumference divided by 3.14 to determine diameter.
- D. "Established corner yard" means the area between the side property line and the principal structure on a lot.
- E. "Established front yard" means the area between the front property line and the principal structure on a lot.
- F. "Hazard" or "hazardous" means a tree, or part of a tree, that has a high potential for failure and falling on a nearby object because of dead or dying branches, roots or trunk.
- G. "Injure" means any act or omission which substantially affects or seriously jeopardizes the health of a living tree, in the determination of the city manager.
- H. "Landmark tree" means a tree designated as a landmark under Chapter 17.62 of this code as a tree of historic or cultural significance and of importance to the community due to any of the following factors: It is one of the largest or oldest trees of the species located in the city; it has historical significance due to an association with a historic building, site, street, person or event; or it is a defining landmark or significant outstanding feature of a neighborhood.
- I. "Landmark-eligible tree" means a tree which meets the criteria for designation as a landmark tree, as determined by the review authority.
- J. "Located" or "location" of a tree means that place where any portion of the trunk of a tree is found at natural grade.
- K. "Maintain" or "maintenance" means pruning, trimming, spraying, fertilizing, watering, treating for disease or injury or any other similar act which promotes growth, health, beauty and life of trees.
- L. "Master street tree plan" means the comprehensive street tree plan approved by the city council, which lists the official street tree to be planted or replaced for all streets or sections of streets within the city.
- M. "Mature tree" means an otherwise non-protected tree with a diameter-at-breast-height (DBH) of 19 inches or greater.
- N. "Median" or "traffic island" means a raised area within a street not used for vehicular traffic.
- O. "Multi-trunk" means any tree with multiple trunks attributed to a single tree. Each trunk shall be measured at a height of 4½ feet above natural grade, and the combined areas of the trunks shall be used to determine the tree's size for the purposes of this ordinance.
- P. "Native tree" means any tree with a trunk more than 8 inches in diameter at a height of 4 ½ feet above natural grade that is one of the following species: *Quercus agrifolia* (Coast live oak), *Quercus engelmannii* (Engelmann oak), *Quercus chrysolepis* (Canyon oak), *Platanus racemosa*

(California sycamore), *Juglans californica* (California walnut), *Quercus berberidifolia* (Scrub oak), *Quercus lobata* (Valley oak), *Umbellularia californica* (California bay), *Populus fremontii* (Cottonwood), *Alnus rhombifolia* (California alder), *Populus trichocarpa* (Black cottonwood), *Salix lasiolepis* (Arroyo willow), and *Aesculus californica* (California buckeye).

- Q. "Official street tree" means an approved species of street tree designated in the master street tree plan.
- R. "Parkway" means an area between the property line and the face of the curb, or an area between the property line and the area where the face of the curb would ordinarily be located.
- S. "Property owner" means the person listed as the owner in fee simple of a lot or parcel with the office of county recorder or lawfully exercising the power of the property owner with respect to said lot or parcel.
- T. "Protected tree" means a native, specimen, landmark, landmark-eligible, mature (except for the trees in RS or RM-12 zones), or public tree.
- U. "Pruning" means the removal of dead, dying, diseased, live interfering, and weak branches according to the most recent standards of the International Society of Arboriculture.
- V. "Public benefit" means a public purpose, service or use which affects residents as a community and not merely as particular individuals.
- W. "Public tree" means a tree located in a place or area under ownership or control of the city including but without limitation streets, parkways, open space, parkland and including city owned property under the operational control of another entity by virtue of a lease, license, operating or other agreement.
- X. "Replacement matrix" means the table of requirements for replanting replacement trees on private property when removing protected tree/s per Finding 6 in Section 8.52.075
- Y. "Specimen tree" means any tree meeting the criteria established by resolution of the city council by species and size of tree which is thereby presumed to possess distinctive form, size or age, and to be an outstanding specimen of a desirable species and to warrant the protections of this chapter.
- Z. "Street" means any public right of way regardless of whether it is described as a street, avenue, road, boulevard, drive, lane, court, place, alley, or by any other such designation.
- AA. "Street tree" means any public tree whose trunk is located primarily within any parkway, public sidewalk, street median, traffic island or other right of way under the ownership or control of the city by easement, license, fee title or other permissive grant of use.
- BB. "Tree" means a woody plant that has a single main trunk with clear apical dominance (i.e., one primary stem is significantly larger than the secondary stem/s).

(Ord. 6896 § 2 (part), 2002)

(Ord. No. 7184, § 2, 3-15-2010)

### **8.52.025 - Applicability.**

The provisions of this chapter providing protection for specific trees shall apply as follows, unless excepted by provisions of this chapter.

- A. Native and specimen trees located in the established front yard, required side yard, established corner yard, or required rear yard of all property located in a single-family residential or RM-12 multifamily residential zone, and in all areas of all other zoning districts within the city.
- B. Landmark trees and trees that meet the criteria for designation as a landmark as determined by the review authority.
- C. Public trees located at all places within the city.
- D. Mature trees in all zoning districts except for trees on properties subject to the RS or RM-12 development standards.

(Ord. 6896 § 2 (part), 2002)

(Ord. No. 7184, § 3, 3-15-2010)

### **8.52.030 - City manager responsibilities.**

The city manager shall:

- A. By use of city employees, private contractors or authorized volunteers, plant, maintain and otherwise care for, or, if necessary, remove public trees.
- B. Prepare an annual program for tree planting and tree care in public places of the city;
- C. Recommend to the city council changes or additions to the master street tree plan as needed;
- D. Inspect the planting, maintenance and removal of all public trees;
- E. Develop maintenance standards as they relate to trees in public places.

- F. Make determinations on public tree removal based upon tree reports prepared by certified arborists, other relevant facts, and upon established public tree removal criteria;
- G. Review development and construction plans as they affect mature, landmark, landmark-eligible, native, public and specimen trees;
- H. Act as advisor to the design commission of the city;
- I. Prepare and submit the tree protection guidelines, and the specimen tree list, and any revisions thereto to the city council for adoption by resolution;
- J. Issue permits and make determinations specified under this chapter;
- K. Maintain a comprehensive inventory of public trees; and
- L. Act as the enforcement official who is designated to issue a compliance order or an administrative citation to enforce this chapter pursuant to Chapter 1.25 or 1.26, respectively, of this code.

*(Ord. 6896 § 2 (part), 2002)*

*(Ord. No. 7184, § 4, 3-15-2010)*

#### **8.52.032 - Tree protection guidelines.**

Tree protection guidelines are the standards and specifications for the protection of trees under this chapter. The tree protection guidelines, and any revision thereto, shall be effective as of the date of their adoption by resolution of the city council.

*(Ord. 6896 § 2 (part), 2002)*

#### **8.52.040 - Consultation policy.**

All departments, agencies and personnel of the city shall consult with the city manager prior to engaging in any action which would require the removal of, or which would otherwise substantially affect or seriously jeopardize the health of any existing public tree.

*(Ord. 6896 § 2 (part), 2002)*

#### **8.52.050 - Design commission.**

The design commission shall review, advise and make recommendations to the city council relating to the city's tree planting, maintenance and removal practices and proposed amendments to the master street tree plan.

*(Ord. 6896 § 2 (part), 2002)*

#### **8.52.060 - Protection policy.**

It shall be the policy of the city to protect and maintain mature and healthy trees. Special consideration shall be afforded mature, public, landmark, landmark-eligible, native and specimen trees as set forth in this chapter.

- A. Incentives for the Preservation of Mature Trees. When considering an application for any permit or approval that preserves mature trees, a decision may be made through the design review process or other entitlement process to waive development standards or accept alternative solutions to assist in the preservation of these trees. The review authority or director, if there is no other review authority, may modify the development standards or accept alternative solutions to assist in the preservation of protected trees. Modifications may include a reduction to garden requirements, guest parking requirements, location of driveways and building height limits. The review authority may approve the modification of up to two development standards after first finding that:
  1. Applicant investigated alternative site designs and building footprints using existing development standards;
  2. Tree/s to be preserved is/are in good health and condition (taking into account species and longevity) as determined by a certified arborist;
  3. Project includes a well integrated and thoughtful design solution that enhances the property and its surroundings;
  4. Project is not injurious to adjacent properties or uses, or detrimental to environmental quality, quality of life, or the health, safety, and welfare of the public; and
  5. Project is consistent with the objectives and policies of the applicable design guidelines and the citywide design principles in the general plan.

(Ord. 6896 § 2 (part), 2002)  
 (Ord. No. 7184, § 5, 3-15-2010)

#### **8.52.065 - Designation of landmark trees.**

Any person or city agency may propose to the historic preservation commission that a tree meets the criteria set forth in Section 8.52.020 and should be designated as a landmark under Chapter 17.62 and, thereby, as a landmark tree under this Chapter 8.52.

(Ord. 6896 § 2 (part), 2002)  
 (Ord. No. 7184, § 6, 3-15-2010)

#### **8.52.066 - Designation of native and specimen trees.**

Designation of native, specimen and mature trees. All trees meeting the definition of native, specimen, landmark, landmark-eligible, or mature trees in Section 8.52.020 are automatically subject to the protections of this chapter, as of the effective date of the ordinance codified in this chapter.

(Ord. 6896 § 2 (part), 2002)  
 (Ord. No. 7184, § 7, 3-15-2010)

#### **8.52.070 - Private property tree removal and landmark tree pruning permits— Applications.**

- A. Where other discretionary approval is requested: Where a property owner wishes to remove a tree protected under this ordinance as part of a plan for which a discretionary approval under Title 17 of this code is otherwise required, the application for discretionary approval shall also be deemed an application for a permit under this chapter to the decision maker for the discretionary approval. Any decision on the application for a permit shall be subject to the same procedures for appeal and call for review as a decision on the associated discretionary approval.
- B. Where no discretionary approval is requested: Where a property owner wishes to remove a tree protected under this ordinance on private property, and no other discretionary approval is required under Title 17 of this code, an application shall be made to the city manager or his/her designee for a permit according to the standard application procedures and submittal requirements set forth in Chapter 17.60 except that the decision shall be made in accordance with the time set forth in Section 8.52.075 (B). A decision on an application shall be made according to the standards of this chapter and shall be subject to the same procedures for appeal and call for review set forth in Chapter 17.72 as if it were a decision of the director within the meaning of that chapter. No noticed public hearing shall be required for an application under this section unless otherwise required by another section of this code or state or federal law.
- C. Landmark tree pruning. Any property owner desiring to prune a landmark tree located on their property shall make an application to the city manager on a form provided by the city to assure that the pruning shall be conducted according to the most recent standards of the International Society of Arboriculture.

(Ord. 6896 § 2 (part), 2002)  
 (Ord. No. 7184, § 8, 3-15-2010)

#### **8.52.075 - Private property tree removal and landmark tree pruning permits— Issuance.**

- A. Any permit or approval which will result in injury to or removal of a mature, landmark, landmark-eligible, native or specimen tree protected under this chapter shall be denied unless one of the following findings is made: (1) there is a public benefit as defined in Section 8.52.024(R), or a public health, safety or welfare benefit, to the injury or removal that outweighs the protection of the specific tree; or (2) the present condition of the tree is such that it is not reasonably likely to survive; or (3) tree is an objective feature of the tree that makes the tree not suitable for the protections of this chapter; or (4) there would be a substantial hardship to a private property owner in the enjoyment and use of real property if the injury or removal is not permitted; or (5) to not permit injury to or removal of a tree would constitute a taking of the underlying real property; or (6) the project, as defined in Section 17.12.020, includes a landscape design plan that emphasizes a tree canopy that is sustainable over the long term by adhering to the replacement matrix adopted by resolution of the city council and included in the associated administrative guidelines. Finding 6 shall not apply to permits or approvals seeking removal of a landmark tree and landmark-eligible trees. In addition, for removal of a landmark tree, any such permit or approval shall be denied unless procedures specified for removal of landmarks in Chapter 17.62 are first followed.
- B.

An application shall be granted, denied, or granted conditionally on the date of the associated discretionary decision, or, if none, within 15 business days after a complete application is made. The approval may be based on imposed conditions reasonably necessary to meet the standards of this chapter.

- C. Alternative to Replacement Matrix Requirements. When using Finding 6 for removal of protected trees, the planting of required replacement trees on-site may be satisfied through the following alternative, in compliance with the city's regulations for the implementation of this chapter.
1. Alternative Replacement Fee. The developer may request to pay a fee instead of planting on site up to 50 percent of the required number of replacement trees, as follows:
    - a. The amount of the fee shall be 100 percent of the appraised value of the tree/s that cannot be replaced.
      - i. Applicant must submit an application that includes: an appraisal by a certified arborist utilizing the most recent edition of the Guide for Plant Appraisal (published by the International Society of Arboriculture), the number replacement trees calculated using the replacement matrix, and a report by a certified arborist or landscape architect that determines that the number of required on-site replacement trees would inhibit healthy growth (e.g., overcrowding of new trees; interfere with roots and canopy of existing protected trees and street trees);
      - ii. Up to 50 percent of the required replacement trees must be planted on-site and the replacement fee shall be a maximum of 50 percent of the appraised value of all trees to be removed, prorated as necessary.
    - b. The review authority may approve an alternative replacement fee only after first making all of the following findings:
      - i. Applicant investigated alternative site designs and building footprints using existing development standards;
      - ii. Placing the required number of replacement trees on site with existing plan is not conducive to a sustainable landscape plan (e.g., overcrowding with existing or new trees; occluding important view corridors; disrupting the configuration of existing open space; or a landscape design which has historic or aesthetic importance; interfering with existing site features—walls, driveways, berms, planting beds, pergolas—which have historic or aesthetic importance);
      - iii. A minimum of 50 percent of the required replacement trees are on-site and the spacing and selection of the proposed trees and the landscape design contributes to the city's long-term goals of a sustainable urban forest as determined by the city's arborist;
      - iv. Project includes a well integrated and thoughtful design solution that enhances the property and its surroundings;
      - v. Project is not injurious to adjacent properties or uses, or detrimental to environmental quality, quality of life, or the health, safety, and welfare of the public; and
      - vi. Project is consistent with the objectives and policies of the applicable design guidelines and the citywide design principles in the general plan.
    - c. One-half of the alternative replacement fee required by this subsection shall be paid (or alternate security provided in a form acceptable to the director of finance) before issuance of a building permit for any part of the project. The remainder of the fee shall be paid before a certificate of occupancy is issued for any portion of the project.
    - d. Fees collected in compliance with this section shall be specified for additional plantings that are above and beyond the city's regular planting programs.

(Ord. 6896 § 2 (part), 2002)

(Ord. No. 7184, § 9, 3-15-2010)

#### **8.52.076 - Work on public trees.**

Public trees. No permits will be issued to any person or entity for pruning or removal of public trees, and all pruning and removal of public trees shall be undertaken by employees or contractors of the city pursuant to Section 8.52.080. Any person desiring to initiate special maintenance or removal of a public tree by the city, may make a written request to the city manager and pay the costs of service and replacement at rates set by resolution of the city council, should the request be granted. Any such request will be considered based on the provisions of this chapter, established public tree removal criteria, other ongoing public tree work and available resources.

(Ord. 6896 § 2 (part), 2002)

#### **8.52.077 - Tree relocation.**

If recommended by a certified arborist or landscape architect, proposals to relocate a protected tree shall be considered by the review authority if after receiving an approval, the applicant posts a performance bond (or alternate security provided in a form acceptable to the director of finance) in an amount equal to 100% of the appraised value of relocated tree/s, calculated using the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture) to ensure that the relocated trees are properly established and maintained for three years. Landmark trees are ineligible for relocation.

(Ord. No. 7184, § 11, 3-15-2010)

#### **8.52.080 - Exemptions—No permit required for certain pruning and removal.**

- A. No permit is required to prune a native or specimen tree on private property as long as the tree is not injured.
- B. No permit is required to prune, injure or remove a tree that is not explicitly protected by this chapter.
- C. Where immediate action is required for the protection of life or property, no permit is required to remove or to injure a protected tree which has been determined to be hazardous, by the city manager or his/her designee, any police officer or any fire fighter, after inspection of the tree.
- D. No permit is required for city employees or contractors of the city to do the following: to prune native, public or specimen trees under the direction of the city manager; to prune native, public or specimen trees as required for compliance with statewide regulations applicable to trees around electrical lines; to injure or remove native, public or specimen trees as the city manager has determined is necessary or prudent for the public health, safety or welfare provided advance notice is given by the city manager to the city council unless advance notice is not feasible, in which case notice will be given promptly thereafter. All tree removal shall be otherwise consistent with adopted public tree removal criteria.
- E. No permit is required to prune, injure or remove a tree on a project for which a variance, conditional use permit or design review approval has been obtained from the city prior to the effective date of this chapter or for a project for which a valid building permit has been lawfully issued by the city prior to the effective date of this ordinance.
- F. No permit is required for any tree removal undertaken to cover the city-owned drainage channel known as the East Side Storm Drain as shown on Drawing No. 5095 on file in the offices of the city department of public works and transportation.

(Ord. 6896 § 2 (part), 2002)

(Ord. No. 7184, § 10, 3-15-2010)

#### **8.52.085 - Prohibited acts.**

The following are prohibited acts under this chapter unless expressly exempted:

- A. Landmark Tree. To prune, injure, or to remove without a permit, a landmark tree located anywhere in the city.
- B. Native Tree. To injure, or to remove without a permit, any native tree located in the established front yard, required side yard, established corner yard, or required rear yard of all property located in a single-family residential or RM-12 multifamily residential zone, and in all areas of all other zoning district anywhere in the city.
- C. Public Tree. To prune, to injure or to remove a public tree located anywhere in the city.
- D. Specimen Tree. To injure, or to remove without a permit, any specimen tree located in the established front yard, required side yard, established corner yard, or required rear yard of all property located in a single-family residential or RM-12 multifamily residential zone, and in all areas of all other zoning districts anywhere in the city.
- E. Landmark-Eligible Tree. To injure, or to remove without a permit, any landmark-eligible tree located in the established front yard, required side yard, established corner yard, or required rear yard of all projects subject to RS and RM-12 development standards, and in all areas of all other zoning district anywhere in the city.
- F. Mature Tree. To injure, or to remove without a permit, any mature tree located in any zone except projects subject to RS and RM-12 development standards.
- G. To plant a tree of a species other than the official street tree in a parkway, median or traffic island, and a violator shall be subject to a civil penalty.
- H. To fail to adhere to the terms and conditions of any permit issued under this chapter.
- I. To fail to adhere to the terms of any tree protection plan imposed as a condition of any discretionary land use approval or development agreement with the city.

(Ord. 6896 § 2 (part), 2002)

(Ord. No. 7184, § 12, 3-15-2010)

#### **8.52.090 - Sidewalk and street repair.**

The repair of sidewalks, curbs, gutters or streets may create a need to prune tree roots to the extent that the tree is damaged or becomes unstable. When this occurs, the city manager, whose decision shall be final, shall give consideration to the following in lieu of action that may damage, destabilize or cause the removal of a tree:

- A. To not make such improvements;
- B. To displace the sidewalk laterally away from the tree trunk, either locally for each tree, or uniformly along length of the street;
- C. To displace the curb and gutter laterally into the paved roadway of the street, either locally, or uniformly along a length of the street, which in some cases may necessitate the prohibiting of street parking of vehicles at all times, provided such displacement does not create traffic hazard, or conditions adverse to proper street sweeping or drainage;
- D. To defer repairs with temporary asphalt patch to eliminate hazard;
- E. To widen the parkway;
- F. To relocate the sidewalk or curb;
- G. To eliminate the sidewalk on one side of the street;
- H. To raise the sidewalk.

*(Ord. 6896 § 2 (part), 2002)*

#### **8.52.100 - Hazards—Private property.**

It shall be unlawful and a violation of this chapter to allow any tree, shrub or plant located primarily on private property to create a hazard or to create danger or likelihood of harm to any public place, public area, parkway or street or to public health, safety or welfare.

*(Ord. 6896 § 2 (part), 2002)*

#### **8.52.110 - Protection of trees during improvements.**

During the construction, repair, alteration, relocation or removal of any building, structure or accessory structure in the city, no person in control of such work shall leave any protected tree without sufficient guards or protections to prevent injury to the protected tree, in connection with such construction, repair, alteration, relocation or removal and it shall be unlawful and a violation of this chapter to do so.

Condition monitoring shall be required for all projects with affected protected trees and/or the planting to ensure that trees are properly established and maintained for three years.

*(Ord. 6896 § 2 (part), 2002)*

*(Ord. No. 7184, § 13, 3-15-2010)*

#### **8.52.120 - Attachments to street trees.**

No person shall, without the written permission of the city manager, attach or keep attached to any public tree, street tree, shrub or plant in any street, park or other public place of the city, or to the guard or stake intended for the protection thereof, any wire, rope, sign, nail or any other device whatsoever.

*(Ord. 6896 § 2 (part), 2002)*

#### **8.52.140 - Interference.**

No person shall interfere with any city employee or city contractor acting under this chapter.

*(Ord. 6896 § 2 (part), 2002)*

#### **8.52.150 - Notice of public tree removal.**

The city manager shall give at least 10 days written notice to abutting property owners prior to the removal of any public tree. No notice shall be required to be given, however, if the public tree has been determined to be hazardous under the standards in Section 8.52.080(C). In the event of a decision under this chapter for the removal of 3 or more public trees in an area, the city manager shall also notify the city council, the design commission and any neighborhood organizations located in such area which are known.

*(Ord. 6896 § 2 (part), 2002)*

**8.52.155 - Prosecution of violations.**

A violation of any provision of this chapter shall be prosecuted as a misdemeanor or infraction at the option of the city prosecutor and as further set forth in Section 8.52.150 with respect to penalties and administrative proceedings.

*(Ord. 6896 § 2 (part), 2002)*

**8.52.160 - Penalties and administrative proceedings.**

- A. Misdemeanors. Any person who violates any provision of this chapter and is convicted of a misdemeanor shall be punished by a fine of not more than \$1,000.00 or by imprisonment for a period of not more than 6 months or by both such fine and imprisonment.
- B. Infractions. Any person who violates any provision of this chapter and is convicted of an infraction shall be punished by a fine of not more than \$250.00. Each person convicted may be deemed guilty of a separate offense for every day during any portion of which any violation is committed or permitted.
- C. In addition to the penalty provisions of subsections A and B of this section, violations of Sections 8.52.085, 8.52.100, 8.52.110, 8.52.120 or 8.52.140 may be subject to the administrative proceedings set forth in Chapters 1.25 and 1.26 of this code, including, but without limitation, civil penalties, late payment penalties, administrative fees, other related charges and, to the maximum extent permitted by law, tree replacement costs as established by resolution of the city council.

*(Ord. 6896 § 2 (part), 2002)*

**8.52.165 - Remedies not exclusive.**

To the maximum extent permitted by law, administrative remedies specified in this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive.

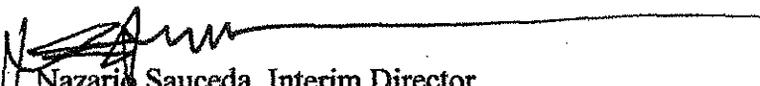
*(Ord. 6896 § 2 (part), 2002)*

**CITY OF LOS ANGELES**  
INTER-DEPARTMENTAL CORRESPONDENCE

**DATE:** October 19, 2011

**TO:** Public Works and Budget and Finance Committees of the Los Angeles City Council

Attn: Office of the City Clerk  
Room 395 City Hall

**FROM:**  Nazario Saucedo, Interim Director  
Bureau of Street Services

**SUBJECT:** Sidewalk Repair Options (C.F. 05-1853 and 05-1853-S1)

This report is an update to the April 8, 2010 Bureau of Street Services (BSS) report discussed by a joint meeting of the Public Works and Budget and Finance Committees in April 2010 and an oral report presented by BSS at the July 20, 2011 joint meeting.

**RECOMMENDATIONS**

That the Public Works and Budget and Finance Committees:

1. Identify the 1-3 options which they deem the most feasible and instruct BSS and other applicable Departments to report back with a detailed implementation plan(s) with associated funding requirements to include staffing needs and program administration costs.
2. If at least one of the selected options requires the repeal of the limited tree root growth exception, forward the City Attorney report and proposed Ordinance (*Attachment A*) to the City Council, recommending adoption of the proposed Los Angeles Municipal Code (LAMC) change and associated California Environmental Quality Act finding.

**DISCUSSION**

LAMC Amendment

Previous reports under the Council Files, especially Attachment I to the February 12, 2008 BSS report to the Public Works Committee, outline in detail the history of sidewalk development in the City of Los Angeles, State of California legal authority, relevant law, legal opinions, and official actions taken with regard to sidewalk maintenance and responsibilities.

In summary, State Law (Improvement Act of 1911, aka California Streets and Highways Code – Division 7) and City Code (Los Angeles Municipal Code Section 62.104) already place the responsibility for sidewalk construction, reconstruction and repair on the adjoining property owner. However, in 1973, in part because of available federal funding, the City accepted responsibility for

repairs to curbs, driveways or sidewalks required *as the result of street tree root growth*. This limited exception is still effective today, despite the absence of funding.

The accompanying City Attorney Report (City Attorney Report No. R11-0132 dated March 31, 2011) transmits a Draft Ordinance, which recommends:

- repealing the *street tree root growth* exception, effectively returning the responsibility for repair of curbs, driveways and sidewalks damaged by any cause, including by street tree root growth, back to the adjoining property owner;
- increasing the time required for adjoining property owners to commence the work of repair and/or reconstruction of sidewalks from “two weeks” to ninety (90) days; and
- adopting a California Environmental Quality Act – Categorical Exemption Finding in conjunction with the LAMC amendment.

The City Attorney report and proposed Ordinance should be considered in conjunction with whichever option(s) are ultimately approved for implementation.

#### Other Jurisdictions

In 2008, BSS conducted a telephone survey to learn how other California and National Cities manage their sidewalk repair programs. The partial results are presented in *Attachment B*.

#### Implementation Options

In 2008, BSS presented a comprehensive plan for implementing a Point of Sale Program, which was developed by a task force comprised of numerous City Departments and private interests. The Public Works Committee instead instructed BSS to present implementation options for enforcing L.A.M.C. 62.104 and the “1911 Act”. Many of these options were previously presented in the April 8, 2010 BSS report and/or the July 20, 2011 oral report and could promote a City-wide approach:

1. **REPEAL THE LIMITED EXCEPTION AND ENFORCE 1911 ACT**  
BSS investigators would be required to inspect sidewalks and cite property owners, directing that repairs be started within ninety days. With any enforcement model, the City would need to identify how it would address property owners who fail to comply with the citation as well as how to aid property owners with a financial hardship.
  - 1A. **Enforce Citywide**  
The entire City would be covered in a time frame directly related to the resources allocated for the program.
  - 1B. **Complaint – Driven Program**  
In the absence of a proactive inspection program, the citation effort would be limited to locations brought to BSS’ attention through service requests and complaints.
  - 1C. **Enforce along Major and Secondary Highways**  
Major and secondary highways are major commuter and public transportation routes comprising approximately 25% of the sidewalk network. A limited

repair program as such would require significantly less resources or can be completed in a proportionately shorter period of time. The presumption is that these sidewalks accommodate much more pedestrian traffic and a targeted effort would benefit a greater number of people. More information would be needed from LADOT on pedestrian traffic volumes to substantiate the assumption. This approach would also be consistent with the City's Americans with Disabilities Act Transition Plan, which places a higher priority on public transportation corridors. However, most street trees are located in residential areas, which may be an indicator of more potential damage in those areas.

**1D. Enforce Adjacent to Sidewalk Trip and Fall Claim Locations**

Sidewalk improvements would be enforced against adjacent property owners where "Trip and Fall" claims have been filed with the City Clerk. The size of this program would be determined by the claims filed within a set time interval, whether 3 years, 5 years or other. With approximately 2,000 related claims filed each year, a 3-year program would consider 6,000 locations, whereas a 5-year program would consider 10,000 locations. It would further be logical to cite other noncompliant property owners on the block where damaged sidewalk exists. Allocated staffing and resources would determine which of these alternatives would be feasible.

**1E. Enforce Adjacent to Sidewalk Trip and Fall Lawsuit Locations**

For trip and falls unresolved at the claim level and which escalate to a lawsuit, this option would limit the targeted enforcement to property owners adjacent to those locations. The size of this program would be determined by the lawsuits filed within a set time interval, whether 3 years, 5 years or other. With approximately 200 lawsuits filed each year, a 3-year program would consider 600 locations, whereas a 5-year program would consider 1,000 locations. It again would be prudent to cite non-compliances on the remainder of the block.

**1F. Enforce under 1A, 1B, 1C, 1D, or 1E with a 50-50 Voluntary Sidewalk Repair Program**

**2. REPEAL THE LIMITED EXCEPTION AND DO NOT ENFORCE**

**3. REPEAL THE LIMITED EXCEPTION AND AUTHORIZE THE CITY ATTORNEY TO SEEK REIMBURSEMENT FROM HOMEOWNER'S INSURANCE IN CLAIMS WHERE LIABILITY IS ASSESSED**

Where the City has expenditures related to sidewalks claims and lawsuits, should City Policy include pursuing reimbursement with the adjacent property owner's insurance company? The City Attorney would have to estimate any staffing and resource needs for this option. Homeowners having to pay deductibles and insurance premium increases could be contentious.

**4. POINT-OF-SALE or POINT-OF-SERVICE or POINT-OF-PERMIT**

"Point-of-Sale" would require the buyer or seller of a property to obtain a Safe Sidewalk Certificate from BSS prior to the *close of escrow*.

**“Point-of-Service”** would require the buyer of a property to obtain certification prior to *utility connection*.

**“Point-of-Permit”** would require certification when any *building permit is issued* for repairs/improvements valued over \$20,000 (or other specified value).

4A. **Apply Any “Point” Program Citywide**

4B. **Apply Any “Point” Program in Commercial Zones**

With “Point-Of-Service” alone, sidewalk improvements would lag in commercial zones because commercial properties are not transferred as often as residential properties are. Explicit enforcement in commercial zones would place a priority on commercial zones which generally have higher pedestrian usage.

4C. **Apply any “Point” program with a 50-50 Voluntary Sidewalk Repair Program**

The challenges include establishing whether City funds should be used to help facilitate repairs that are the responsibility of private property owners and whether the City can reliably reserve sufficient funds to sustain a “50/50” program.

**5. SIDEWALK REPAIR ASSESSMENT DISTRICT**

Property owners within the City can form an assessment district to repair their sidewalks using the procedures in the California Streets and Highways Code. These districts do not require that the properties be contiguous and the districts can be of any size. However, the State Constitution stipulates that property owners shall vote on any assessments imposed for the construction or maintenance of public improvements, thus this option carries a risk of not being approved by the voters after the City has expended considerable time and effort to form a district.

The cost to administer a district will run approximately 20% of the assessment amount for districts that assess \$500,000 or more and up to 60% for smaller districts. If the amount owed is more than \$150, the property owners can pay in installments, however interest will accrue on the balance.

The Bureau of Engineering has resources to process only a few small districts each year so the formation of a large Assessment District or a large number of smaller Assessment Districts would require significant additional resources to develop and bring forward for a public vote and, if approved, require more resources to administer the Program over an extended period.

**6. BONDS**

This option would require recommendations from the CAO and other informed City Departments with regard to the various potential bond size and type scenarios. A comprehensive sidewalk survey may be required prior to bond development in order to better estimate the need and cost of sidewalk reconstruction. Current estimates are based on sample surveys and extrapolations from over 12 years ago. In 1998, Council placed Proposition JJ on the ballot which would have provided \$550 million over 20 years for

the construction of ADA mandated curb ramps as well as the repair of City sidewalks. That ballot measure was defeated by the voters, receiving only 43% support.

**7. MAINTAIN THE LIMITED EXCEPTION – CURRENT POLICY**

BSS would continue its current practice of making interim repairs using hot asphalt or other flexible, readily available and effective material that would not require removing the sidewalk and pruning tree roots or removing street trees.

Funding Opportunities

BSS manages an off-budget construction program of over \$100 million, much of which consists of transportation grant funded projects that often include a significant element of sidewalk reconstruction and/or new sidewalk connected to the subject public transportation corridor or special purpose (such as improving a safe route to a particular school). As an example, BSS has nearly completed \$12 million of sidewalk reconstruction work awarded for six projects funded through the American Recovery and Reinvestment Act of 2009. This work included \$2.5 million for a City-wide project. BSS will continue to seek out and apply for new City-wide opportunities that become available.

Using Alternative Sidewalk Materials and Construction or Management Practices

**1. “RIGHT TREE, RIGHT PLACE” STRATEGY**

The potential for infrastructure damage by tree roots can be reduced by implementing a phased tree removal and replacement program. Trees that have aged beyond their useful life can be replaced by utilizing the optimum tree species for the specific location.

**2. REMEDIAL TREATMENTS**

**2A. Sidewalk Grinding**

As a temporary measure, a lifted sidewalk up to ¾ of an inch can be ground down to remove the lifted edge and establish a smooth, continuous surface between adjacent concrete slabs. Over time, however, the sidewalk will continue to be lifted and it must then be replaced or ground again. In fiscal year 2006-07, BSS was authorized 13 positions and funded approximately \$1 million to repair over 18,000 locations City-wide.

**2B. Ramping**

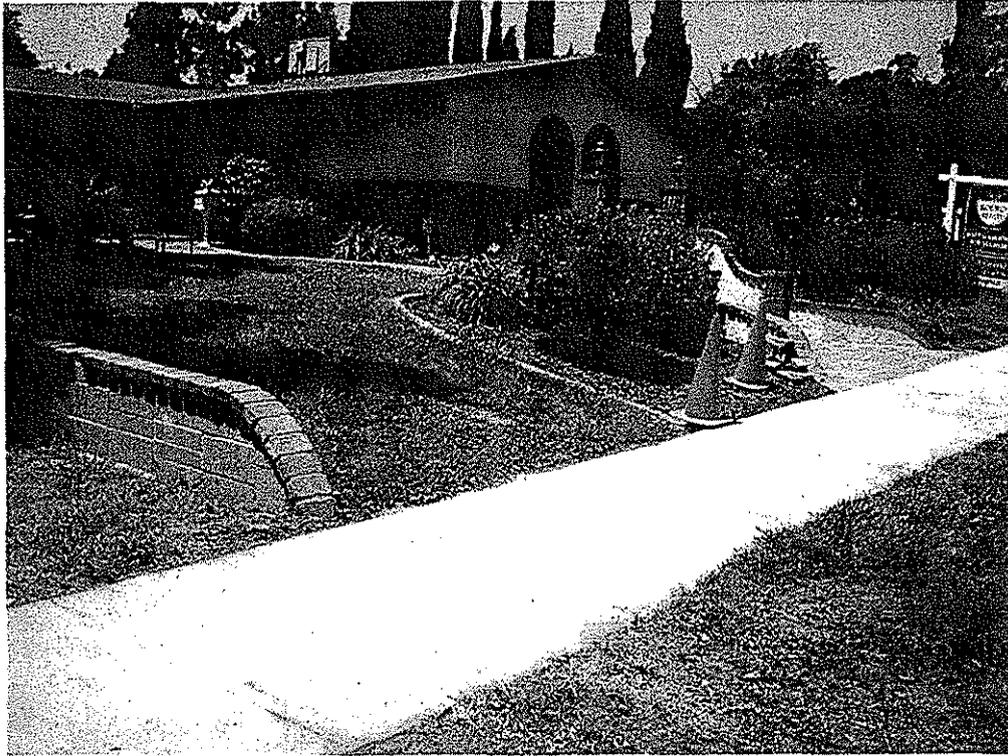
Ramping over tree roots is commonly used to create a temporary sloped transition from the edge of a lifted section to the original grade. Typically, asphalt is used to replace some of the lifted concrete sidewalk.

**3. ALTERNATIVE MATERIALS**

In Fiscal Year 2008-09 when the City-wide and 50/50 Programs were last funded, the total cost for sidewalk reconstruction with conventional Portland Cement Concrete (PCC) was \$20+ per square foot when reconstructing a block at a time and \$35+ per square foot when reconstructing one parcel at a time (higher due to additional mobilization costs and usually more expensive tree mitigation work). It is estimated

that 60-70% or more of these costs were attributed to the removal of the existing concrete sidewalk, tree work, and repairs to driveways and sprinkler systems for damage caused by removal work. It therefore should be noted that the cost of replacement material and installation is relatively small.

### CONVENTIONAL CONCRETE (PCC)



**Cost - \$7/sq. ft installed, \$20/sq. ft. (including removals and preparation)**

BSS has experimented with alternative sidewalk materials to Portland Cement Concrete (PCC), including rubber panels, recycled mixed plastic materials, poured rubber materials, and porous concrete. Early versions of rubber sidewalk weathered quickly and did not last very long. Surfaces of more recent recycled materials wear relatively quickly leaving smooth and possibly slippery sidewalk finishes in wet weather. Porous concrete requires frequent maintenance (vacuuming) to preserve its environmental qualities and its relatively rough texture may not be suitable in all urban conditions. The total cost of sidewalk reconstruction using these alternate materials is normally higher than conventional PCC, ranging from \$24 - \$32 per square foot. Decomposed granite is yet another option that has not been studied by BSS for use on City sidewalks. Although relatively inexpensive and easy to install, design standards, potentially high maintenance requirements, and ADA requirements may not permit its use in many locations.

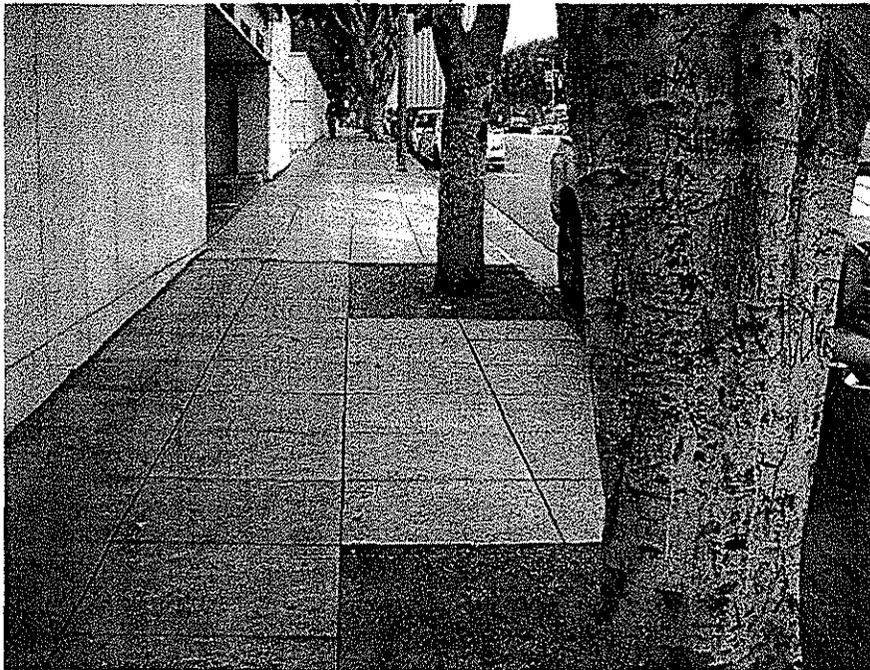
**3A. PANELS USING RECYCLED MATERIALS**

Sidewalk Panels consisting of plastic and other recycled materials are being tried in the City of Los Angeles and are being used in the City of Santa Monica and New York City, among other municipalities. When displaced by tree roots, panels can be removed to inspect and treat the underlying problem.

**RECYCLED MATERIALS (INCL. PLASTIC AND RUBBER)**



(Before)



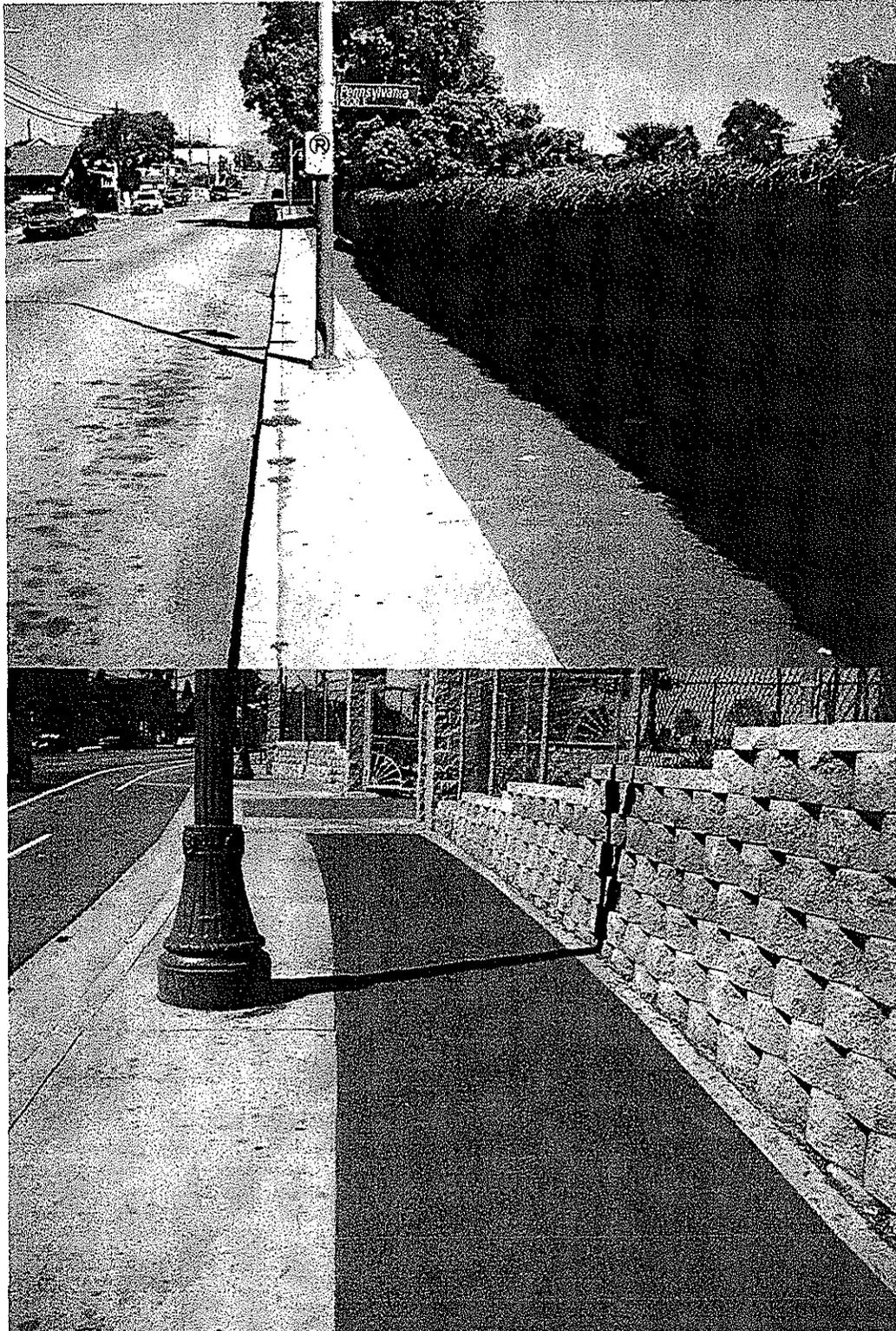
(After)

**Cost - \$12/sq. ft installed, \$25/sq. ft. (including removals and preparation)**

**3B. RECYCLED RUBBER**

Advantages of rubber pavers or poured-in-place rubber include flexibility and often permeability and ease of repair

**POURED RUBBER MATERIAL**

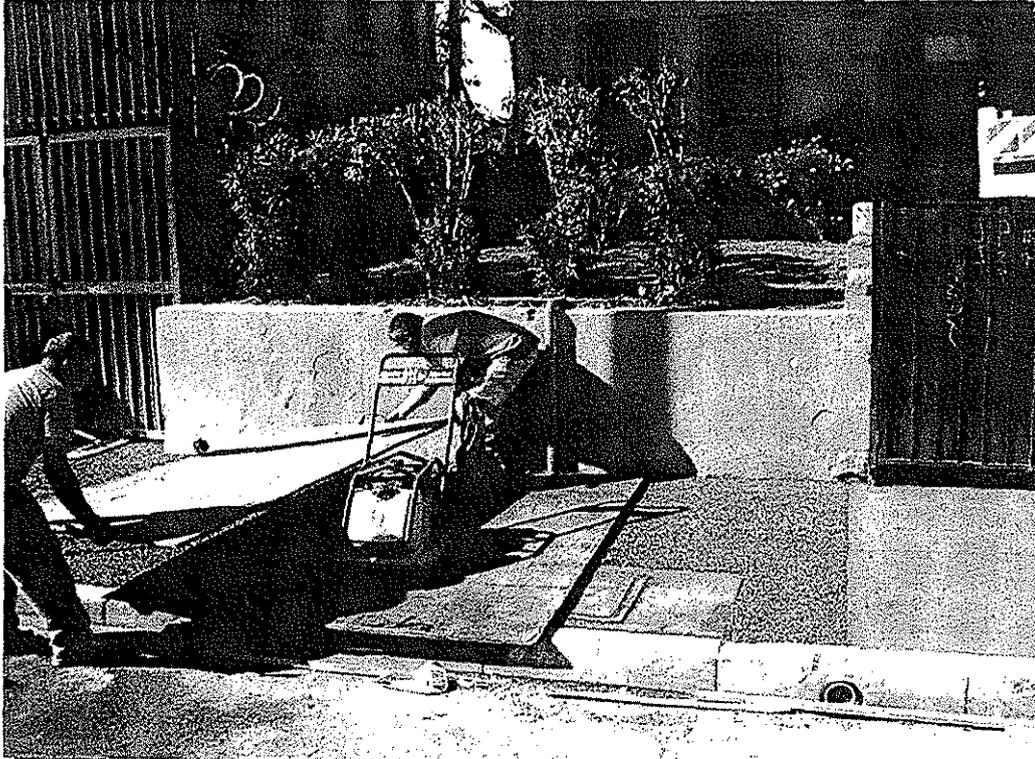


Cost - \$18/sq. ft installed, \$32/sq. ft. (including removals and preparation)

### 3C. POROUS CONCRETE

Porous concrete allows water and air to pass through it. It is thought to encourage deep rooting by distributing water through the soil profile. To prevent water from accumulating under the sidewalk, porous concrete is best used over sandy or other well-drained soils. Much of Los Angeles' sidewalk network may not be conducive to this type of material

#### POROUS CONCRETE



Cost - \$10/sq. ft installed, \$24/sq. ft. (including removals and preparation)

BSS is currently testing other types of material more versatile than conventional Portland Cement Concrete (PCC) for making sidewalk repairs or for use as a sidewalk reconstruction material. These materials include recycled asphalt and “grindings” (fines from street profiling) mixed with recycled, crushed concrete and other materials. In most cases, these types of flexible materials can be used for making sidewalk repairs with or without removing damaged sidewalk or performing other involved preparation work. The total cost of sidewalk reconstruction using these alternate materials ranges from \$19 - \$20 per square foot. Sidewalk repairs requiring minimal removal and preparation work can be made at a cost of \$6-7 per square foot.

### COATED GRINDINGS



**Section # 1**  
Grindings with  
Colored Paint

**Cost: \$7/sq. ft. installed**  
**(\$20 incl. prep)**

**Section # 2**  
Concrete Powder Mixed  
with Grindings (No Paint)

**Cost: \$6/sq. ft. installed**  
**(\$19 incl. prep)**

**Section #3**  
Grindings with  
Colorless Paint

**Cost: \$7/sq. ft. installed**  
**(\$20 inc. prep)**

## MIXED GRINDINGS



(Before)



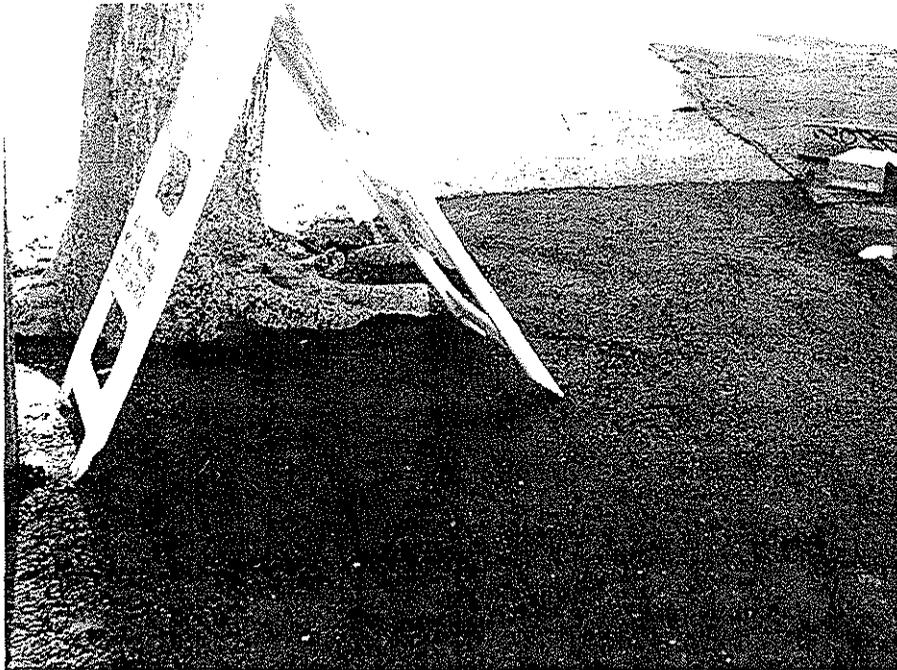
(After)

**Cost - \$6/sq. ft installed, \$19/sq. ft. (including removals and preparation)**

## HOT ASPHALT-CONCRETE



(Before)



(After)

**Cost - \$6/sq. ft installed, \$19/sq. ft. (including removals and preparation)**

BSS has had a long-standing practice of performing interim asphalt repairs on substandard sidewalk conditions that are brought to our attention. Most of these repairs can be made quickly without requiring equipment to remove the existing concrete sidewalk or performing tree root pruning or removal. In extreme cases when the sidewalk does have to be removed, asphalt can be used as a replacement material, allowing safe ramping over tree roots. Furthermore, the surface can be "dusted" using a cement powder, leaving a more acceptable color appearance. However, the key to keeping costs manageable is to avoid sidewalk removal and tree mitigation work whenever possible.

### Conclusion

Limited studies from over 12 years ago estimate sidewalk damage at 4,600 miles (about 40% of the network) at a cost today of over \$1.5 billion. Furthermore, BSS has very limited information as to where this damage is and to what degree a problem exists. Theoretically, sidewalk related trip and fall claims can be generated from anywhere in the City and a realistically sized program to implement any of the Implementation Options outlined in this report may not make a significant impact in mitigating the problem. Furthermore, all of these options require funding and new staff for inspection/enforcement, contract administration, assessment/debt management and general administration and support even if construction by City forces is not offered as an option. Option 7 (making interim asphalt repairs usually without any removals or tree work) can continue to be implemented, making all reported damaged conditions safe in a relatively timely manner without the need for additional funding or staff and is therefore the recommended staff option at this time.

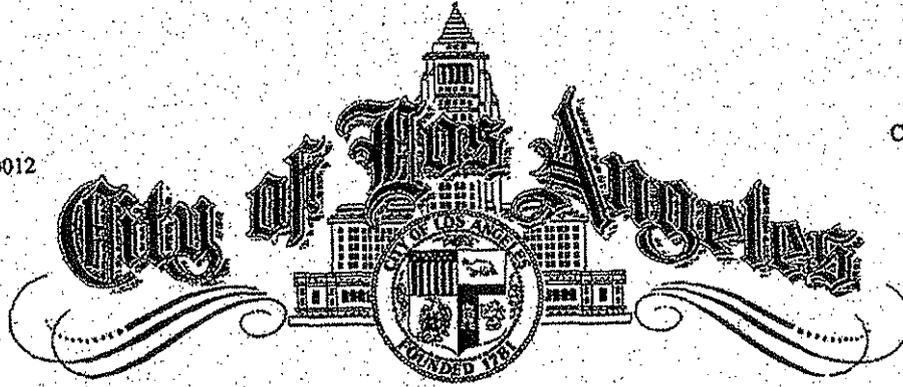
If you have any questions or if additional information is needed, please contact me or Assistant Director Ron Olive at (213) 847-3333.

Attachments

ATTACHMENT "A"

City Hall East  
200 N. Main Street  
Room 800  
Los Angeles, CA 90012

(213) 978-8100 Tel  
(213) 978-8312 Fax  
CTrutanich@lacity.org  
www.lacity.org/atty



CARMEN A. TRUTANICH  
City Attorney

REPORT NO. R 1 1 - 0 1 3 2

MAR 3 1 2011

REPORT RE:

**REVISED DRAFT ORDINANCE AND CEQA FINDING IN CONNECTION  
WITH AMENDING SUBSECTION (e) OF SECTION 62.104 OF THE  
LOS ANGELES MUNICIPAL CODE TO REPEAL THE "EXCEPTION"  
THAT ESTABLISHED CITY LIABILITY FOR REPAIR OF CURBS,  
DRIVEWAYS AND SIDEWALKS DUE TO TREE ROOT DAMAGE**

The Honorable City Council  
of the City of Los Angeles  
Room 395, City Hall  
200 North Spring Street  
Los Angeles, CA 90012

Council File No. 05-1853

Honorable Members:

Pursuant to your request, this Office previously prepared and transmitted (City Attorney Report No. R09-0270) a draft ordinance that would amend Subsection (e) of Section 62.104 of the Los Angeles Municipal Code (LAMC) to repeal the "EXCEPTION" within that section which established City liability for repair or reconstruction of curbs, driveways and sidewalks required as a result of tree root growth. Thereafter, your Honorable Public Works and Budget and Finance Committees requested this Office to revise the draft ordinance to increase the time required for adjoining property owners to commence the work of repair or reconstruction of curbs, driveways and sidewalks from two weeks to 90 days after the date notice is given. This Office now transmits for your consideration the attached revised draft ordinance, approved as to form and legality.

The Honorable City Council  
of the City of Los Angeles  
Page 2

CEQA Exemption

This ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Title 14, Chapter 3 of the California Code of Regulations Section 15301. Existing Facilities (which includes the repair of existing public structures or facilities involving negligible or no expansion of an existing use) and City CEQA Guidelines Article III 1.a.3 (repair, maintenance or minor alteration of existing highways and streets, sidewalks, gutters...). If the Council chooses to adopt the ordinance, it should also find that it is exempt from the provisions of CEQA pursuant to the above cited sections.

Council Rule 38

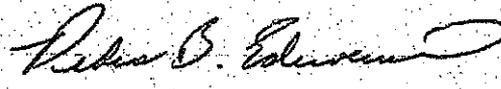
In accordance with the requirements of Council Rule 38, this Office has forwarded the draft ordinance to affected City departments and requested them to address any comments that they may have directly to the City Council when you consider this matter.

If you have any questions regarding this matter, please contact Assistant City Attorney Edward M. Jordan at (213) 978-8184. He or another member of this Office will be present when you consider this matter in order to answer any questions you may have.

Very truly yours,

CARMEN A. TRUTANICH, City Attorney

By



PEDRO B. ECHEVERRIA  
Chief Assistant City Attorney

PBE:EMJ:mg  
Transmittal

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Subsections (b) and (c) of Section 62.104 of the Los Angeles Municipal Code to increase the time required for adjoining property owners to commence work of repair or reconstruction of curbs, driveways and sidewalks, and to repeal the EXCEPTION within Subsection (e) of Section 62.104 of the Los Angeles Municipal Code to eliminate City responsibility for the repair or reconstruction of curbs, driveways and sidewalks required as a result of tree root growth.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Subsection (b) of Section 62.104 of the Los Angeles Municipal Code is hereby amended to read as follows:

**(b) Time Required for Repairs.** Any owner, agent or occupant of any such premises, within ninety (90) days after notice given as provided herein, shall commence the work of repair or reconstruction, or both, and shall do said work in the manner and with the materials specified in said notice. No owners, agent or occupant of any such premises where notice is given as provided herein shall fail, refuse, or neglect to commence the work required in said notice within the time permitted herein, nor shall any such person after having begun such work fail, refuse, or neglect to proceed diligently with the work to completion in the manner and with the materials specified in said notice.

Sec. 2. Subsection (c) of Section 62.104 of the Los Angeles Municipal Code is hereby amended to read as follows:

**(c) Failure to Repair.** In the event a person neglects, fails, or refuses within ninety (90) days after notification, to begin the work of repair or reconstruction of the property designated in the notice, or fails to prosecute the work diligently to completion, the Board shall have the power to perform the work described in the notice.

Sec. 3. Subsection (e) of Section 62.104 of the Los Angeles Municipal Code is hereby amended to read as follows:

**(e) Determination of Responsibility for Damage.** Whenever the Board determines that a curb, driveway or sidewalk is damaged as the result of negligence or violation of this Code and the Board determines the identity of the responsible party, all costs incurred pursuant to this section shall be a personal obligation of the responsible party, recoverable by the City in an action before any court of competent jurisdiction. These costs shall include an amount equal to forty percent (40%) of the cost to perform the actual work, but not less than the sum of \$100.00, to cover the City's costs for

administering any contract and supervising the work required. In addition to this personal obligation and all other remedies provided by law, if the Board determines that a curb, driveway or sidewalk is damaged to such an extent as to create a menace to the public health, welfare and safety, and to constitute a public nuisance, the City may collect any judgment, fee, cost, or charge including any permit fees, fines, late charges, or interest, incurred in relation to the provisions of this section as provided in Los Angeles Administrative Code Sections 7.35.1 through 7.35.8.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality:

CARMEN A. TRUTANICH, City Attorney

By   
EDWARD M. JORDAN  
Assistant City Attorney

Date 3-31-11

File No. 05-1853

ATTACHMENT "B"

STATE	CITY	Sq Miles	SW Prog	Trigger	Impacts	Comments
Alabama	Montgomery	156.19	City	City Engineer		
Arizona	Phoenix	517.17	Prop Owner&City	Inspection		
Arizona	Tuscon	195.1	City	Inspection/Safety Haz		The City does all repairs, there is no enforcement or budget. There is an informal complaint driven tracking of damaged locations.
Arizona	Mesa	133.13	City&Prop Owner	Monthly Tax of \$3.00		Every resident is charged. "Concrete Division" is in marks damage in orange.
Arkansas	Little Rock	116.81	Prop Owner&City	Inspection		
Arkansas	Fort Smith	52.9	City	Jan/yrly rprs		Engineering Div does repairs
California	Anaheim	50.5	City	Complaint		No enforcement/inspections. Grinding crew repairs, when in area they grind all locations, free. Rpr flow line w/rock drill...offered demo. Inventory is a result of complaints received. No budget, rprd approx 100,000 sq miles last year
California	Berkley	17.7	Prop Owner&City			Tree damage = City responsibility
California	Oakland	78.2	Prop Owner&City			Tree damage = City responsibility
California	Pasadena	23.2	Prop Owner/POS		Permits \$20,000+ pulled trigger SW inspection	Ord since 1991, began enforcement 2006
California	Sacramento	99.2	Prop Owner	Complaint, notices are given to PO's in each direction 50 ft of the complaint location.	None	Notices (2) are sent (total of 90 days are given to comply), if noncompliant contractor rprs & PO is billed, if remains unpaid, City places a lien. Does not have a POS, but homeowners have complained about their insurance co requiring repairs.

ATTACHMENT "B"

California	San Francisco	231.92	Prop Owner/City	Complaint	Any permit pulled triggers SW inspection.	Notices are sent, if PO does not repair after 40 days, the City will under their SW Insp & Rpr Prog. PO is billed plus 12% admin fee. Private trees are responsibility of PO, City trees = City responsibility.
California	Santa Barbara	41.4	Prop Owner			
California	Santa Monica	15.9	City by contract		The Nexus Program requires PO's to repair SW if damage occurs during home improvements.	Contract is awarded for \$1 million; used to have a 50/50 program but were advised that it was illegal due to Prop 218. Every 3 yrs, 1/3 of the City is inspected, by contract.
California	San Diego	372.1	Prop Owner/50-50	Complaint triggers inspection & notice of liability but there is no enforcement	Any permit pulled triggers SW inspection	Prog requirements-City will complete rprs in 90days; minimum rpr of 75 sq ft must be "old & deteriorated", no tree damage, curbs included @ no cost, & driveways are extra cost. No inventory/inspection/ enforcement. City rpr City tree damage. City uses contracts.
Colorado	Denver	154.9	Prop Owner	Complaint	Improvements over \$100,000 require sidewalk/driveway/curb rpr	Enforcement is based on complaint, notice issued, 30 days to rpr or court appearance, then lien. Damage by trees is still PO's responsibility.

ATTACHMENT "B"

						City Prog is by area per yr, notices & public hearing are held, then City rprs in selected area. PO's are billed no more than \$450. Annual budget \$650,000***If complaint is outside area & City rprs the PO is billed 50% of the cost, if PO rprs the City reimburses 50%. ***They are contracting out the inventory svc, but it is not completed (Cartograph Syst)
Colorado	Boulder	25.4	Prop Owner&City	Prog by area/Complaint	None	
Connecticut	Hartford	18	Prop Owner&City	Complaint/Inspection		Permit-\$10,000
Connecticut	Bridgeport	19.4	Prop Owner&City	Permit-\$10,000+		Fees for SW repair include: SW, contractors & license: permit is only for minor rprs, major rprs must be done by City
Delaware	Wilmington	17	Prop Owner	No permit		20 days to rpr/City rpr @ PO expense
Florida	Tallahassee	98.2	Prop Owner	Permit/Price NA		
Florida	Jacksonville	885	City	Complaint/Hi Traffic/Ped		Originally prop owner, but officials changed to City. Used to cite/enforce. Now funded for \$1mil=6-7 miles, includes tree damage
Florida	Orlando	101	Prop Owner&City	Complaint/Inspection		12 mos to rpr/Tree damage, City rprs
Florida	Miami	55.27	Prop Owner	Inspection	Permit to rpr \$50.00	
Georgia	Atlanta	132.4	Prop Owner	Inspection		City rprs @ PO expense
Georgia	Columbus	220.8	City	Claims		A permit must be obtained before Engr rprs
Georgia	Savannah	78.1	Prop Owner&City	Inspection		
Georgia	Macon	56.3	Prop Owner	Inspection		
Idaho	Boise	64	Prop Owner	Inspection		Citations issued for non-rpr; permit amt n/a
Idaho	Nampa	19.9	Prop Owner			City will rpr @ PO expense
Illinois	Chicago (Heights)	237	Prop Owner	Complaint	Permit (Bond) to rpr \$10,000	Owner must provide barricade w/light
Illinois	Springfield	60.3	Prop Owner&City			
Illinois	Aurora	39.4	City&Prop Owner	Inspection	Permit only for 50/50 (ADA Prog)	

ATTACHMENT "B"

Illinois	Rockford	56.7	Prop Owner&City	Inspection	Permit to rpr \$10.00	
Indiana	Indianapolis	372	City&Prop Owner	PO can rpr w/permit	Permit to rpr \$500.	City does most repairs
Indiana	Fort Wayne	79.12	Prop Owner&City			\$2,500 fine for non-compliance
Iowa	Des Moines	77.2	Prop Owner	City Inspection	Permit to rpr \$20.00	City rprs if owner does not @ owner's expense
Iowa	Cedar Rapids	64.4	Prop Owner&City			
Kansas	Topeka	57	Prop Owner	Complaints		
Kansas	Wichita	138.9	Prop Owner&City	Complaints		30 days to rpr
Kentucky	Frankfort	15	Prop Owner	Complaints		
Kentucky	Lexington	285.5	Prop Owner&City	Inspection	Permit to rpr \$1,000+ dependent on degree of damage	
Louisiana	Baton Rouge	79.1	Prop Owner	Inspection (every 6 mos)	Permit to rpr \$100	
Louisiana	New Orleans	350.2	Prop Owner&City	Investigation		
Maine	Portland	52.6	City	Complaint		
Maryland	Annapolis	7.6	Prop Owner	Inspection/Complaint		City provides DIY & contractors list
Maryland	Baltimore	92.1	Prop Owner&City	Inspection		
Massachusetts	Boston	89.6	Prop Owner	Inspection	No permit required	
Massachusetts	Worcester	38.6	City	City Council	No permit required	
Michigan	Lansing	35.2	Prop Owner	Inspection	No permit required	
Michigan	Detroit	143	Prop Owner&City	Inspection		
Minnesota	St. Paul	56.2	Prop Owner	Inspection (Engrg Div)	Permit to rpr \$50	
Minnesota	Minneapolis	58.4	City	Inspection every 10 wk/by area	Permit to rpr \$15	

ATTACHMENT "B"

Mississippi	Jackson	106.8	Prop Owner&City			
Missouri	Jefferson City	28.3	Prop Owner	Inspection	No permit required	Per Ord, failure to maintain=misdemeanor
Missouri	Kansas City	31.8	Prop Owner&City		Permit required	
Montana	Helena	14	Prop Owner	Inspection (Engrg Div)	Permit cost n/a	
Montana	Billings	41.6	Prop Owner&City	Safety Complaint		
Nebraska	Lincoln	75.4	City		Permit to rpr \$50	Permit required for new SW construction
Nebraska	Omaha	118.9	Prop Owner&City	Inspection		Owner also liable
Nevada	Las Vegas	131.3	Prop Owner	Inspection	Permit/amt n/a	Citation issued for failure to repair
Nevada	Reno	69.3	Prop Owner	Inspection		PO liable/responsible for everything, including tree damage
Nevada	Carson City	155.7	Prop Owner	Inspection	No permit	
New Jersey	Newark	26	Prop Owner&City	Inspection/Complaints	Permit based on damage	Damage >250 sq ft across+\$50-\$130, damage 250 sq ft across \$35-\$65; failure to rpr, City will @ owners expense
New Mexico	Albuquerque	181.3				
New Mexico	Santa Fe	37.4	Prop Owner	Inspection	Bldg permit & \$15. curb permit required	Failure to rpr, City will @ owners expense
New York	Buffalo	52.5	City	2 yr inspection cycle		City contract rprs every 2 yrs
North Carolina	Raleigh	115.6	Prop Owner&City	Safety Complaint		
North Dakota	Fargo	37.9	Prop Owner	Inspection		
Ohio	Columbus	212.6	Prop Owner	Complaint	Permit to rpr \$200	
Oklahoma	Oklahoma City	621.2	City (no enforcement)	Complaint	None	City actually provides rprs, inventory is in process, no inspection cycle.
Oklahoma	Tulsa	186.8	Prop Owner	Inspection	No permit	PO must provide barricade
Oregon	Portland	376.5	Prop Owner	Inspection	Permit to rpr \$1,000	City will hire private contractor to rpr @ owners exp if PO fails
Oregon	Salem	46.4	Prop Owner	Inspection	Permit	
Pennsylvania	Philadelphia	135	Prop Owner	Inspection	Permit to rpr \$1,000	

ATTACHMENT "B"

Rhode Island	Providence	20.5	Prop Owner&City	Inspection/Citation	License to rpr \$100	
South Carolina	Columbia	133.8	Prop Owner	Inspection/Complaint	Permit amt n/a	Must notify City when prop changes owners
South Carolina	Charleston	178.1	City	DOT is responsible	Complaints by public	
South Dakota	Sioux Falls	68.6	Prop Owner	Injury Complaint		PO is responsible for injury damages
Tennessee	Memphis	313.8	Prop Owner	Inspection	Permit to rpr \$15,000	PO is responsible including tree damage
Texas	San Antonio	412.1	Prop Owner	Inspection	Permit to rpr \$500	City will rpr @ owners exp
Utah	Provo	41.8	Prop Owner&City	Inspection/Complaints	Permit to rpr \$200 + \$100 bond permit	
Washington	Seattle	142.5	Prop Owner			
West Virginia	Charleston	32.7	Prop Owner&City	Inspection		60 days to rpr/License \$25
Wisconsin	Madison	84.7	50/50			

**SCNC BOARD**

Barbara Monahan Burke  
Jeffrey Carter  
Ezra Dweck  
Victor Helo  
Wayne Kartin  
Remy Kessler  
Michael McCue  
Ben Neumann  
Richard Niederberg  
Todd Royal  
Lisa Sarkin  
Gail Steinberg  
Jeffrey Steinberg  
Ron Taylor  
Rita C. Villa  
John T. Walker



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**VICE PRESIDENT**  
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**TREASURER**  
Remy Kessler

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Gail Steinberg

**CORRESPONDING SECRETARY**  
Lisa Sarkin

May 31, 2010

Honorable Councilmember Paul Krekorian  
200 N. Spring Street  
Los Angeles, CA 90012

**Send by Email and FAX**

Re: Sidewalk Repair

Dear Councilmember Krekorian:

The SCNC is opposed to the proposed ordinance that would repeal Los Angeles Municipal Code Section 62.104, thereby shifting responsibility for sidewalk repair to the property owner. In 1974 the city adopted the aforementioned municipal code, recognizing the city's obligation to repair sidewalks damaged by trees planted by the city. Now, faced with fiscal shortfalls and concern over liability, the city is attempting to renege on its responsibility with little or no notice to the citizens of Los Angeles.

The issue of sidewalk repair is not new. It has been discussed and debated within the council for several years. In fact, last year the Public Works Committee passed a motion instructing the Bureau of Street Services (BSS) to conduct a citywide outreach. However, the SCNC did not receive notice that such outreach has taken place. Most stakeholders are unaware the City is considering this action.

The proposal before you places the legal responsibility on the property owner without outreach to the community as required by the directive to BSS. Before shifting the responsibility to the property owner, the City of Los Angeles MUST:

- Demand that the BSS conduct a comprehensive outreach effort to ALL Neighborhood Councils in each of the seven City Planning areas. If they listen to Neighborhood Councils, they will most likely discover a sincere willingness to seek and share solutions to this "quality of life" issue;
- Conduct an analysis to determine insurance liability and insurance affordability as both insurance questions relate to property owners and the City alike.

SCNC (cont.)

As you know, the city has a responsibility to conduct public outreach before adopting an ordinance that will radically shift financial responsibility for sidewalk repair from the City to the property owners. Please vote no on the proposed ordinance.

If you have any questions, please do not hesitate to contact me directly.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Ben R. Neumann", written in a cursive style.

Ben R. Neumann, President  
Studio City Neighborhood Council

Cc: CD2 Staff, Councilmember LaBonge, Councilmember Koretz

BRN/lis

NORTHWEST SAN PEDRO NEIGHBORHOOD COUNCIL  
RESOLUTION RELATED TO SIDEWALK ORDINANCE

Whereas nearly half of all sidewalks in the City of Los Angeles are in need of repair, and these sidewalks cause injury to those who walk on the sidewalks and subjects the city to liability, and

Whereas the City of Los Angeles is facing a serious budget shortfall, and

Whereas, an Ordinance has been drafted (CF 05-1383-S1) that would Amend Subsection (e) of Section 62.104 of the LAMC to transfer liability and responsibility to property owners for repair of curbs, driveways and sidewalks due to tree root damage; and

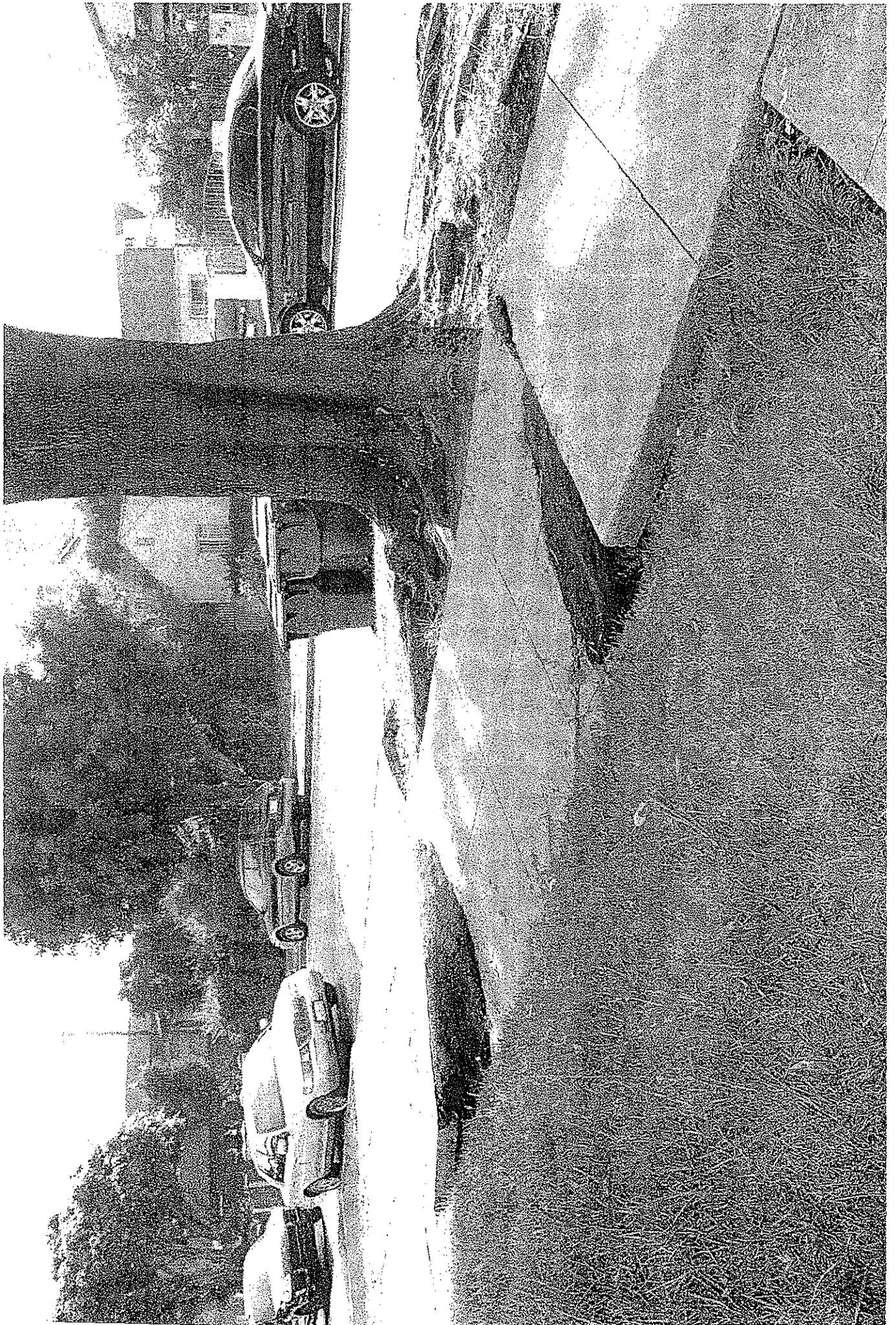
Whereas the City does not allow the adjoining property owners to remove the root cause of the sidewalk damage, i.e. the offending trees, and

Whereas the Northwest San Pedro Neighborhood Council is desirous of promoting both tree-lined streets and safe sidewalks;

Now Therefore Be It Resolved that the Northwest San Pedro Neighborhood Council:

1. Opposes the proposed ordinance as it is currently written.
2. Opposes any transfer of liability for slip and fall accidents on the sidewalk to the adjoining property owner.
3. Requests that the two existing sidewalk task forces be expanded to include representatives of Neighborhood Councils from throughout the City;
4. Requests that the task forces continue to explore all possible options, including the point of sale option, and the issue of tree removal.
5. Requests that the full array of options be presented to the community for comment and input through a series of workshops throughout the City
6. Requests that there be adequate time for review and comment by Neighborhood Councils.

Adopted Unanimously 11/10/09











DIMENET Hot News Network

Article #3140

[Previous](#) | [Index](#) | [Home](#) | [Next](#)

## NCDs Lex Frieden on ADA & Access to Sidewalks

Posted by: [jfa@jfanow.org](mailto:jfa@jfanow.org)

Date Mailed: Tuesday, May 27th 2003 12:10 PM

NCD's Lex Frieden on ADA & Access to Sidewalks

Here is another important letter in support of our struggle to maintain access to sidewalks, a letter from Lex Frieden of the National Council of Disability to The Honorable Theodore B. Olson Solicitor General, urging him maintain the position of the Department of Justice in support of the decision of the Ninth U.S. Circuit Court of Appeals re Barden v Sacramento. As you recall, the Ninth Circuit ruled in Barden that sidewalks are covered by the Americans with Disabilities Act and must be accessible to all citizens. The City of Sacramento is appealing to the U.S. Supreme Court to overturn that decision.

Letter to The Honorable Theodore B. Olson, Solicitor General,  
Office of the Solicitor General, April 17, 2003

April 17, 2003

The Honorable Theodore B. Olson Solicitor General  
Office of the Solicitor General  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001

Dear Solicitor General Olson:

Last month, the Supreme Court invited the Solicitor General to file a brief expressing the views of the United States in the case of Barden, et al. v. City of Sacramento, et al., 292 F.3d 1073 (9th Cir. 2002), petition for cert. filed, 71 U.S.L.W. 3566 (March 3, 2003) (No. 02-815). As the Court decides whether to consider the merits of the case in question, the National Council on Disability (NCD) urges the Department of Justice to maintain its position in support of the decision of the Ninth U.S. Circuit Court of Appeals.

NCD is an independent federal agency composed of 15 members appointed by the President and confirmed by the Senate. Pursuant to its statutory mandate, 29 U.S.C. -- 781 (1994), NCD is charged with reviewing federal laws, regulations, programs, and policies affecting people with disabilities, and making recommendations to the President, the Congress, and other federal officials and entities.

In this role, NCD is responsible for advising on the implementation, impact and effectiveness of the Americans with Disabilities Act, 42 U.S.C. -- 12101 et seq. (ADA).

NCD first proposed the concept of the ADA in 1986. Congress relied on and acknowledged the influence of NCD, its reports, and its testimony throughout the legislative process. Since passage of the ADA, NCD has remained actively involved in monitoring its impact and advising federal entities on policy issues.

In *Barden*, the Ninth Circuit rightly held that "Title II's prohibition of discrimination in the provision of public services applies to the maintenance of public sidewalks, which is a normal function of a municipal entity. 1 This decision adheres to the plain meaning of the statutory language, implementing regulations and legislative history of the ADA (Title II), 42 U.S.C. 12131 et seq., and Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794 et seq. The City of Sacramento maintains that Title II and Section 504 apply only to the extent that they [sidewalks] provide direct access to a building in which some other government service is provided and that sidewalks are not a service, program or activity of the City.

Providing, constructing, and maintaining a system of public sidewalks is clearly a service the City of Sacramento provides to its residents, a program administered by its Public Works Department, and an important government activity. When a person with a disability is denied the use of a public sidewalk because it is inaccessible, he or she is excluded from a government service and denied the benefits of a city service, program or activity. Sacramento's assertion that it should not have to make its sidewalks accessible to people with disabilities is out of step with modern times and inconsistent with American values that embrace diversity in all aspects of society. Sidewalk access is a necessity of life for people with mobility and visual disabilities to get around safely and be able to get to school, work, and participate in other basic social activities. Lack of sidewalk access is a major cause of isolation and exclusion from the basic opportunities Americans treasure -- the ability to be independent and participate in our economic and social life. The fact that the City of Sacramento is worried that subjecting sidewalks to accessibility requirements would impose unreasonable financial obligations on public entities is not a reason to disregard the plain language of the statutes and regulations. The regulations address this problem by providing that modification of existing sidewalks is not required when it will impose an undue burden.

Moreover, substantial federal funding is available for making sidewalks accessible to people with disabilities. The Transportation Equity Act for the 21st Century (TEA-21) authorized the use of Surface Transportation Program funds for the installation of --, pedestrian walkways, -- and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990. 2 Thus, arguments that Title II of the Americans with Disabilities Act is an "unfunded mandate" are erroneous and an insult to tax-paying citizens with disabilities.

In addition, public responsibility for making sidewalks, designed and built with public funds, accessible to people with disabilities did not begin with the ADA or the Rehabilitation Act of 1973. Technical guidance on making sidewalks accessible has been available since 1961. Section 4.2 of the first publication of accessibility standards by the American National Standards Institute A117.1 Committee described the accessibility requirements for public walks. The ANSI technical specifications were

voluntary at that time but became mandatory with the passage of the first federal accessibility law -- the Architectural Barriers Act of 1968, (P.L. 89-333). The Architectural Barriers Act requires that buildings and facilities designed, constructed, or altered with Federal funds, or leased by a Federal agency, must comply with standards for physical accessibility. Additionally, the ANSI A117.1 Standard has been adopted as an enforceable code by many State and local agencies that regulate the design and construction of built facilities. The technical requirements in ANSI A117.1 are also referenced in the model building codes established by regional organizations such as the following:

- Building Officials and Code Administrators International (BOCA)
- International Conference of Building Officials (ICBO)
- Southern Building Code Congress International (SBCCI)

There is much guidance, technical assistance and models of best practices for a city to follow to makes its facilities accessible. The Federal Highway Administration of the U.S. Department of Transportation funded a national project to assist states, cities, and counties in making their facilities accessible to people with disabilities. See, "Designing Sidewalks and Trails for Access: Review of Existing Guidelines and Practices (July 1999). The U.S. Access Board published "Accessible Rights-of-Way: A Design Guide" (Nov. 1999)  
<http://www.access-board.gov/publications/prow%20guide/prowguide.htm>.

Most recently, the U.S. Access Board convened a national advisory committee of stakeholders, including state and local civil engineers, traffic engineers, highway officials, and people with disabilities, to develop detailed recommendations for accessibility standards for public rights-of-way. See, the Public Rights-of-Way Access Advisory Committee Final Report, "Building A True Community" (Jan.2001)  
<http://www.access-board.gov/prowac/commrept/index.htm>.

Even if this guidance were not available, it is disingenuous for the city to argue that they are not covered by the ADA and Section 504. Like the Ninth Circuit states, "Rather than determining whether each function of a city can be characterized as a service, program, or activity for purposes of Title II, however, we have construed "the ADA's broad language [as] bring[ing] within its scope "anything a public entity does. 3 This broad construction of the phrase, "services, programs, or activities," is supported by the plain language of the Rehabilitation Act because, although the ADA does not define services, programs, or activities," the Rehabilitation Act defines "program or activity" as "all of the operations of" a qualifying local government. 4

The Court goes on to note that the legislative history of the ADA similarly supports construing the language generously, providing that Title II "essentially simply extends the anti-discrimination prohibition embodied in section 504 [of the Rehabilitation Act] to all actions of state and local governments." H.R. Rep. No. 101-485 (II), at 84 (1990), reprinted in 1990 U.S.C.C.A.N. 303, 367 (emphasis added); see also id. at 151, reprinted in 1990 U.S.C.C.A.N. 303, 434 ("Title II...makes all activities of State and local governments subject to the types of prohibitions against discrimination...included in Section 504...") In fact, the ADA must be construed "broadly in order to effectively implement the ADA's fundamental purpose of providing a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. 5

In any event, the law is clear. Title II of the ADA provides, "Subject

to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. 12132. Section 504 provides that: "No otherwise qualified individual with a disability in the United States... shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance..." 29 U.S.C. 794(a). The regulations under both statutes define "facility" to include "roads" and "walks." 6 The Title II regulations specifically address one aspect of the accessibility of sidewalks, requiring, among other things, that public entities install curb ramps in newly constructed or altered sidewalks. 7 35.150 requires the provision of curbs, "giving priority to walkways serving" government offices, "transportation, places of public accommodation, and employers," but then "followed by walkways serving other areas." 8 This section's "requirement of curb ramps in all pedestrian walkways reflects a general concern for the accessibility of public sidewalks, as well as a recognition that sidewalks fall within the ADA's coverage, and would be meaningless if the sidewalks between the curb ramps were inaccessible. 9

The above regulations were issued by the Department of Justice to implement Title II, pursuant to 42 U.S.C. 12134 and must be consistent with the regulations issued to enforce Section 504 and consistent with the architectural "minimum guidelines and requirements" to be developed by the Architectural and Transportation Barriers Compliance Board (Access Board).<sup>10</sup> <sup>11</sup> The City of Sacramento maintains that because only curb ramps are addressed specifically in the regulations, curb ramps are the only portion of sidewalks that are covered by Title II. This ignores the fact that the Government has not yet completed its accessibility guidelines for public facilities generally, or sidewalks in particular. Until that process is complete, public entities have a degree of flexibility in making their sidewalks accessible, but are still bound by the general accessibility regulations for facilities and by the nondiscrimination requirements of Title II itself, as stated above.

NCD believes that the well-reasoned analysis of the Ninth Circuit fully reflects the statutory intent, and should become the precedent for all future decisions involving similar challenges to the coverage of the ADA and Section 504. Sacramento's position that federal laws don't cover sidewalks is untenable. Any city that refuses to make its public facilities accessible to people with disabilities, despite the long-standing federal requirements, standards, guidance, technical assistance, and models of best practices now available is simply intransigent, and should not be rewarded for its recalcitrance.

In closing, we appreciate the opportunity to present our views to you on this important case. If there are any questions you would like to discuss further, please contact Jeffrey Rosen, General Counsel and Director of Policy, at (202) 272-2124 or by e-mail at [jrosen@ncd.gov](mailto:jrosen@ncd.gov). Thank you.

Sincerely,

Lex Frieden  
Chairperson

cc: Chief Justice William Rehnquist  
Associate Justice John Paul Stevens  
Associate Justice Sandra Day O' Connor  
Associate Justice Antonin Scalia  
Associate Justice Anthony Kennedy  
Associate Justice David Souter  
Associate Justice Clarence Thomas  
Associate Justice Ruth Bader Ginsburg  
Associate Justice Stephen Breyer

1 Barden at 1077.

2 23 U.S.C.A. -- 133.

3 Barden citing Lee v. City of Los Angeles, 250 F.3d 668, 691  
(9th Cir. 2001) (quoting Yeskey v. Pa. Dep't of Corr., 118 F.3d 168,  
171 (3d. Cir. 1997), aff'd, 524 U.S. 206, 118 S.Ct. 1952,  
141 L.Ed.2d 215 (1998)) at 1076.

4 Barden citing 29 U.S.C. -- 794(b)(1)(A) at 1077.

5 Arnold v. United Parcel Serv., Inc. 136 F.3d 854, 861 (1st Cir. 1998).

6 See 28 C.F.R. 35.104 (Title II); 28 C.F.R. 41.3(f) (Section 504).

7 28 C.F.R. 35.151(e)(2).

8 28 C.F.R. -- 35.150(d)(2).

9 Barden at 1077.

10 Title II requires non-discrimination in all programs, services,  
and activities of public entities. The construction, alteration, or  
maintenance of the public rights-of-way is an activity of a public  
entity and is therefore subject to the non-discrimination requirements.  
A public pedestrian circulation network is both a "program", i.e., a  
service delivered by a government to its citizens, and a set of  
"facilities," e.g., the sidewalks, curb ramps, street crossings,  
and related pedestrian elements that are instrumental in providing the  
service. E.R. 180 (Access Board, Accessible Public Rights of Way Design  
Guide 15, 18 (2000) (Access Board Design Guide)).

11 See 42 U.S.C. 12204, 12134(b).

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